



Transcript of **Karin Melka Lang**

Date: June 8, 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

12 THE U.S. DEPARTMENT OF STATE,

13 By and Through its Designated Representative

14 KARIN MELKA LANG

15 Washington, DC

16 Wednesday, June 8, 2016

17 9:09 a.m.

18
19
20 Job No.: 111974

21 Pages 1 - 206

22 Reported by: Debra A. Whitehead

Videotaped Deposition of Karin Melka Lang, Designated Representative
Conducted on June 8, 2016

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1 Videotaped Deposition of KARIN MELKA LANG, held
2 at 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

ON BEHALF OF PLAINTIFF:

MICHAEL BEKESHA, ESQUIRE
JAMES F. PETERSON, ESQUIRE
PAUL J. ORFANEDES, ESQUIRE
RAMONA COTCA, ESQUIRE
JUDICIAL WATCH, INC.
425 Third Street, SW
Suite 800
Washington, DC 20024
(202) 646-5172

ON BEHALF OF DEFENDANT:

CAROLINE LEWIS WOLVERTON, ESQUIRE
LARA NICOLE BERLIN, ESQUIRE
MARCIA BERMAN, ESQUIRE
STEVEN A. MYERS, ESQUIRE
U.S. DEPARTMENT OF JUSTICE
CIVIL DIVISION
20 Massachusetts Avenue, NW
Washington, DC 20530
(202) 514-2205

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

2 ALSO PRESENT:

3 THOMAS J. FITTON, President, Judicial Watch

4 DEREK FOX, Video Specialist

5 GREGORY LAUDADIO, Judicial Watch

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1	P R O C E E D I N G S	09:08:53
2	VIDEO SPECIALIST: Here begins Tape Number	09:08:53
3	1 in the videotaped deposition of Karin Lang in the	09:09:00
4	matter of Judicial Watch, Inc., versus U.S.	09:09:05
5	Department of State, in the United States District	09:09:10
6	Court for the District of Columbia; Civil Action	09:09:14
7	Number 13-CV-1363.	09:09:18
8	Today's date is June 8, 2016. The time on	09:09:25
9	the video monitor is 9:09. The videographer today	09:09:30
10	is Derek Fox, representing Planet Depos. This video	09:09:36
11	deposition is taking place at 20 Massachusetts	09:09:41
12	Avenue, Northwest, Washington, DC.	09:09:46
13	Would counsel please voice-identify	09:09:49
14	themselves and state whom they represent.	09:09:50
15	MR. BEKESHA: Michael Bekesha, on behalf	09:09:54
16	of Judicial Watch.	09:09:56
17	MR. ORFANEDES: Paul Orfanedes, on behalf	09:09:56
18	of Judicial Watch.	09:09:56
19	MS. COTCA: Ramona Cotca, on behalf of	09:09:56
20	Judicial Watch.	09:10:01
21	MR. PETERSON: James Peterson, for	09:10:01
22	Judicial Watch.	09:10:03

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1	MS. WOLVERTON: Caroline Lewis Wolverton,	09:10:03
2	for the Department of State.	09:10:07
3	MS. BERMAN: Marcy Berman, for the	09:10:08
4	Department of State.	09:10:10
5	MS. BERLIN: Lara Berlin, Department of	09:10:10
6	State.	09:10:12
7	MR. MYERS: Steven Myers, for the	09:10:12
8	Department of State.	09:10:14
9	MR. FITTON: Tom Fitton, Judicial Watch	09:10:15
10	President.	09:10:18
11	MR. LAUDADIO: Gregory Laudadio, Judicial	09:10:19
12	Watch.	09:10:20
13	VIDEO SPECIALIST: The court reporter	09:10:20
14	today is Debbie Whitehead, representing Planet	09:10:21
15	Depos.	09:10:24
16	Would the reporter please swear in the	09:10:25
17	witness.	09:10:26
18	KARIN MELKA LANG,	09:10:26
19	having been duly sworn, testified as follows:	09:10:37
20	MS. WOLVERTON: Before we get started, the	09:10:37
21	witness does reserve the right to read and sign the	09:10:39
22	transcript.	09:10:41

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1	EXAMINATION BY COUNSEL FOR PLAINTIFF	09:10:43
2	BY MR. BEKESHA:	09:10:43
3	Q Great. Good morning, Ms. Lang. My name	09:10:45
4	is Michael Bekesha. I'm an attorney for Judicial	09:10:50
5	Watch, and I'm here to ask you some questions about	09:10:53
6	one of Judicial Watch's Freedom of Information Act	09:10:55
7	lawsuits against the State Department, specifically	09:10:59
8	questions surrounding the creation, purpose, and use	09:11:00
9	of the Clintonemail.com system by then Secretary of	09:11:02
10	State Hillary Clinton and Huma Abedin to conduct	09:11:06
11	official business.	09:11:09
12	Before we begin, could you please state	09:11:10
13	and spell your full name, for the record.	09:11:12
14	A Karin Melka Lang. First name Karin,	09:11:15
15	K-A-R-I-N; middle name Melka, M-E-L-K-A; last name	09:11:19
16	Lang, L-A-N-G.	09:11:24
17	Q Thank you. And I'd also like to go over a	09:11:25
18	few ground rules. Your counsel may have already	09:11:27
19	talked to you about them, but they'll help the	09:11:30
20	deposition go more smoothly.	09:11:32
21	If you don't hear one of my questions or	09:11:34
22	don't understand one of my questions, please let me	09:11:36

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1 know, I'll be happy to either rephrase or repeat the 09:11:37
2 question. 09:11:40

3 Also, it's important that you respond out 09:11:41
4 loud. If you shake your head or make any hand 09:11:43
5 gestures, the court reporter isn't going to be able 09:11:46
6 to record those sorts of things. 09:11:48

7 Finally, it's important that you wait 09:11:51
8 until I'm done asking questions to answer questions. 09:11:52
9 And if counsel has any objections, to wait until 09:11:55
10 counsel is done with her objections. That way the 09:11:57
11 court reporter can easily record what everybody is 09:12:01
12 saying. 09:12:05

13 With that, what's your current job title 09:12:06
14 at the State Department? 09:12:08

15 A I'm the director of the Executive 09:12:11
16 Secretariat staff. 09:12:13

17 Q And how long have you been in that 09:12:13
18 position? 09:12:16

19 A Since July of 2015. 09:12:18

20 Q Okay. And prior to July of 2015, what was 09:12:20
21 your immediate position, immediate past position at 09:12:24
22 the State Department? 09:12:27

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1 A I was director of American Citizen 09:12:29
2 Services at the U.S. Embassy in Mexico. 09:12:31

3 Q And what -- what was the time period for 09:12:34
4 that? 09:12:35

5 A July 2013 -- August 2013 to July 2015. 09:12:38

6 Q Okay. And I don't want to go too far back 09:12:43
7 in your employment history at the State Department, 09:12:46
8 but just the years from 2009 to, I guess, 2013. Did 09:12:49
9 you have one position or several positions at the 09:12:54
10 State Department? 09:12:56

11 A In 2009 I was chief of immigrant visas at 09:12:58
12 the U.S. Consulate in Quanzhou, China. I left that 09:13:04
13 position in 2010. I then spent a year at the 09:13:07
14 National Defense University. And in July 2011 I 09:13:11
15 became Deputy Director of the Office of Japanese 09:13:18
16 Affairs at the Department of State, a position I 09:13:21
17 held until July 2013 when I went to Mexico. 09:13:25

18 Q Okay. Thank you. 09:13:29

19 In any of those positions between 2009 and 09:13:32
20 two thousand -- I guess until 2015, did you have any 09:13:37
21 duties or responsibilities related to processing of 09:13:40
22 FOIA requests? 09:13:42

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1 MS. WOLVERTON: Objection. Beyond the 09:13:43
2 scope of the 30(b)(6) deposition notice. 09:13:45

3 And I'll instruct the witness not to 09:13:49
4 answer as it's beyond the scope of authorized 09:13:50
5 discovery. 09:13:54

6 MR. BEKESHA: Sure. 09:13:55

7 Q Starting -- when you started your job in 09:13:57
8 July of 2015 at the Executive Secretariat staff -- I 09:13:59
9 guess let's -- before I ask you about your specific 09:14:06
10 job duties, what is the general role of the 09:14:08
11 Executive Secretariat staff? 09:14:11

12 A The Executive Secretariat or the Executive 09:14:14
13 Secretariat staff? 09:14:18

14 Q The Executive Secretariat staff. 09:14:18

15 A The Executive Secretariat staff 09:14:21
16 coordinates preparation and reviews all briefing 09:14:23
17 materials, memoranda, official correspondence for 09:14:26
18 the Secretary, the Deputy Secretaries, and the Under 09:14:30
19 Secretaries of State. 09:14:34

20 The Executive Secretariat staff ensures 09:14:37
21 proper records management for the Secretary and 09:14:39
22 these other department principals, retrieval of 09:14:42

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1 archived documents for the Secretary and other -- 09:14:44
2 and these other senior principals. And the 09:14:48
3 Executive Secretariat staff also advances the 09:14:51
4 Secretary's international travel and staffs his 09:14:55
5 mobile office overseas. 09:14:59

6 Q Okay. Thank you. 09:15:01

7 Today we are going to focus on -- 09:15:02
8 specifically on the FOIA obligations, or the FOIA 09:15:06
9 responsibilities of the Executive Secretariat staff. 09:15:09

10 When you started that position in July 09:15:12
11 2015, what specific FOIA training did you have? 09:15:15

12 MS. WOLVERTON: Objection. Again, beyond 09:15:20
13 the scope of the notice 30(b)(6) deposition. 09:15:22

14 I'll instruct the witness not to answer as 09:15:26
15 it's beyond the scope of authorized discovery. 09:15:28

16 Q Could you talk specific -- generally about 09:15:33
17 what your responsibilities are when it comes to 09:15:35
18 FOIA? 09:15:38

19 MS. WOLVERTON: Same objection, and same 09:15:40
20 instruction not to answer. 09:15:44

21 MR. BEKESHA: Sure. 09:15:49

22 Q How large is the Office of Secretariat 09:15:49

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1 staff? How long -- how large is the office or the 09:15:58
2 staff of the Executive Secretariat staff? 09:16:02

3 A It is an office of 47 full-time equivalent 09:16:04
4 positions. 09:16:08

5 Q And how many of those employees work 09:16:08
6 specifically on FOIA-related issues? 09:16:09

7 A Full time on FOIA-related issues? 09:16:14

8 Q I guess we could break it up in full time 09:16:16
9 or part time. 09:16:19

10 A The office is divided into two divisions, 09:16:22
11 the Advance and Staffing Division and the 09:16:27
12 Correspondence and Records Division. 09:16:31

13 The FOIA responsibilities fall into the 09:16:32
14 Correspondence and Records Division. The deputy 09:16:35
15 director of that division is primarily responsible 09:16:39
16 for FOIA. 09:16:42

17 There's also a management analyst in that 09:16:44
18 division who searches for FOIA, is responsible for 09:16:46
19 FOIA. And part-time a third employee assists with 09:16:50
20 FOIA searches. 09:16:56

21 As the director of the office, part of my 09:16:57
22 duties involve processing FOIA requests. 09:16:59

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1 Q Okay. Thank you. And has the Office of 09:17:02
2 the Executive Secretariat staff always been 09:17:06
3 responsible for the processing of FOIA pros -- FOIA 09:17:10
4 requests with respect to the Office of the 09:17:14
5 Secretary? 09:17:17

6 A Prior to January 2013, the Office of 09:17:17
7 Correspondence and Records within the Executive 09:17:22
8 Secretariat had that responsibility. It was merged 09:17:24
9 with the Secretariat staff in January of 2013. 09:17:27

10 Q Okay. And between -- prior to January 09:17:30
11 2013, from January -- say January 2009 to January 09:17:36
12 2013, who was the director of the Correspondence and 09:17:42
13 Records office? 09:17:47

14 A The director of that office was Clarence 09:17:49
15 Finney. 09:17:52

16 Q Okay. And now you said there's a Deputy 09:17:52
17 Director for the -- what is now the Correspondence 09:17:55
18 and Records Division. 09:17:58

19 Who is the Deputy Director for that? 09:17:58

20 A It is still Clarence Finney. 09:18:01

21 Q Okay. Did any of his responsibilities 09:18:02
22 change with the merger? 09:18:05

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1	A	No.	09:18:09
2	Q	Okay. And does Mr. Finney directly report	09:18:10
3		to you now? Is that --	09:18:13
4	A	Yes.	09:18:15
5	Q	And before that who did he report to?	09:18:15
6		Before the merger, I'm sorry. Before the merger,	09:18:19
7		who did Mr. Finney report to?	09:18:22
8	A	Before the merger, as an office director,	09:18:23
9		Mr. Finney reported to a Deputy Executive Secretary.	09:18:25
10	Q	Between 2009 and 2013, who was the Deputy	09:18:31
11		Executive Secretary that Mr. Finney reported to?	09:18:41
12	A	There was -- there were several. In	09:18:44
13		chronological order, starting with January 21st,	09:18:46
14		2009, Mr. Finney's supervisor, the Deputy Executive	09:18:51
15		Secretary, was Paul Wohlers.	09:18:56
16	Q	Could you spell his last name, please?	09:18:59
17	A	I believe it's W-O-H-L-E-R-S.	09:19:01
18	Q	Thank you.	09:19:07
19	A	Starting in mid two thousand -- 2009, it	09:19:11
20		was Kin Moy.	09:19:18
21	Q	Could you spell that name for us, please?	09:19:20
22	A	K-I-N, M-O-Y.	09:19:22

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1	Q	Okay. And then next?	09:19:25
2	A	Starting in mid 2011, it was Pamela	09:19:31
3		Quanrud.	09:19:36
4	Q	Okay. And after Ms. Quanrud?	09:19:38
5	A	Then I believe it was Julieta Noyes.	09:19:44
6	Q	Could you spell that name, please?	09:19:47
7	A	I believe it's J-U-L-I-E-T-A, N-O-Y-E-S.	09:19:49
8	Q	Okay. And when did she --	09:19:59
9	A	In the second half of 2013.	09:20:02
10	Q	Okay. So after -- after her	09:20:06
11		chronologically, Mr. Finney started reporting then	09:20:09
12		to the Director -- or, sorry, to the -- to your	09:20:14
13		current position, the Director of the Executive	09:20:16
14		Secretariat?	09:20:19
15	A	When -- at the time of the merger,	09:20:19
16		Mr. Finney reported to -- then began to report to	09:20:21
17		the director of the combined office, the Director of	09:20:24
18		the Executive Secretariat staff.	09:20:27
19	Q	Okay. And that merger took place, is	09:20:31
20		there a specific date in January of 2013?	09:20:35
21	A	It was effective January 21st, 2013.	09:20:37
22	Q	Okay. And who was the Director of the	09:20:39

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1	Executive Secretariat staff at that time?	09:20:43
2	A Paul Horowitz.	09:20:45
3	Q Could you spell that last name, please?	09:20:46
4	A H-O-R-O-W-I-T-Z.	09:20:48
5	Q Thank you. Now that we have some of the	09:20:52
6	basic information out of the way, I'm just going to	09:20:57
7	lay out the questions I have today and where we're	09:20:59
8	going to be going so everybody knows. You know,	09:21:03
9	today we're going to discuss three specific topics.	09:21:06
10	First I want to discuss the processing of	09:21:10
11	the FOIA request in this case. Second I want to	09:21:11
12	discuss generally the processing of FOIA requests	09:21:14
13	for e-mails of Mrs. Clinton and Ms. Abedin during	09:21:16
14	Mrs. Clinton's tenure as Secretary of State.	09:21:19
15	And then third and finally, I want to	09:21:21
16	discuss generally the processing of FOIA requests	09:21:23
17	for e-mails of Mrs. Clinton and Ms. Abedin	09:21:25
18	subsequent to Mrs. Clinton's tenure as Secretary of	09:21:28
19	State.	09:21:31
20	So we're going to -- I'll start off	09:21:33
21	talking about the FOIA request at issue in this	09:21:35
22	case.	09:21:38

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1	First I'm just going to ask you to confirm	09:21:38
2	a couple of dates, and then we'll go back and have	09:21:40
3	a -- more of a discussion about those.	09:21:44
4	With -- related to the FOIA request at	09:21:47
5	issue at this date, is it correct that Judicial	09:21:50
6	Watch sent the FOIA request on May 21st, 2013?	09:21:53
7	MS. WOLVERTON: Just to clarify, you mean	09:21:57
8	the FOIA request at issue in this case? I think you	09:21:58
9	said "at this date."	09:22:01
10	MR. BEKESHA: I'm sorry, at this case --	09:22:03
11	in this case.	09:22:04
12	A Yes.	09:22:07
13	Q And the State Department acknowledged and	09:22:07
14	assigned a case number on June 5th, 2013?	09:22:11
15	A Yes.	09:22:15
16	Q And the case number that was assigned is	09:22:16
17	F-2013-08812?	09:22:19
18	A Yes.	09:22:25
19	Q Judicial Watch filed a complaint in	09:22:25
20	federal court on September 10, 2013.	09:22:31
21	Is that correct?	09:22:35
22	A Yes.	09:22:36

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1 Q Is it correct that the State Department 09:22:36
2 was served on September 15, 2013? 09:22:39

3 A I understood the State Department was 09:22:45
4 served on September 17, 2013. 09:22:46

5 Q Okay. Thank you. 09:22:49

6 Is it correct that by letter dated 09:22:52
7 February 12th, 2014, in part the State Department 09:22:55
8 stated that it had completed searches of the 09:22:59
9 following Department of State record systems: The 09:23:03
10 Central Foreign Policy records, the Bureau of Human 09:23:06
11 Resources, the Office of the Executive Secretariat, 09:23:10
12 and the Office of the Legal Advisor? 09:23:12

13 MS. WOLVERTON: Objection. Lack of 09:23:15
14 foundation. Assumes facts not in evidence. It 09:23:16
15 seems that you're referring to a document. Perhaps 09:23:20
16 you could introduce the document and show it to the 09:23:22
17 witness so she could verify what you're 09:23:24
18 representing. 09:23:27

19 MR. BEKESHA: Sure. 09:23:28

20 This can be marked as Exhibit 1. 09:23:30

21 (Deposition Exhibit 1 marked for 09:23:40
22 identification and is attached to the transcript.) 09:23:50

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1 Q Have you had time to review the document? 09:23:50

2 A Yes. 09:24:04

3 Q Thank you. Is this a -- is what has been 09:24:05

4 marked as Exhibit 1 a February 12, 2014, letter from 09:24:10

5 the Department of State to Judicial Watch, advising 09:24:16

6 Judicial Watch that it had completed -- the State 09:24:20

7 Department had completed searches within its office 09:24:24

8 in response to its FOIA request? 09:24:26

9 MS. WOLVERTON: Objection. The document 09:24:28

10 speaks for itself. 09:24:29

11 Q You may answer the question. 09:24:33

12 A Yes. 09:24:35

13 Q All right. Thank you. 09:24:35

14 We're now going to talk -- take a step 09:24:42

15 back and talk about the processing of the FOIA 09:24:44

16 request between each of those -- within those dates 09:24:48

17 that we just identified. 09:24:51

18 Between May 21st, 2013, and June 5th, 09:24:55

19 2013, did the State Department receive the FOIA 09:25:00

20 requests from Judicial Watch? 09:25:05

21 A I'm sorry. Can you repeat the question? 09:25:07

22 Q Sure. Between May 21st, 2013, when the 09:25:09

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1	FOIA request was sent, and June 5th, 2013, when did	09:25:13
2	the State Department -- I'll change the question a	09:25:17
3	little -- when did the State Department receive the	09:25:19
4	FOIA request?	09:25:21
5	A I believe it was May 21st.	09:25:24
6	Q Okay. And who -- who was it received by?	09:25:26
7	A It was received by the Office of	09:25:31
8	Information Programs and Services within the Bureau	09:25:35
9	of Administration, which has responsibility for FOIA	09:25:36
10	processing within the Department of State.	09:25:38
11	Q Who within that office received the FOIA	09:25:40
12	request?	09:25:45
13	A Within the Office of Information Programs	09:25:46
14	and Services, which I'll refer to as IPS, by its	09:25:49
15	initials, the office of -- the division is the	09:25:53
16	Requester Liaison Division, and the branch that does	09:25:58
17	initial processing of FOIA requests is the Requester	09:26:01
18	Communications Branch.	09:26:06
19	It was received by the Requester	09:26:07
20	Communications Branch.	09:26:11
21	Q Is there a specific employee that received	09:26:11
22	the FOIA request within that branch?	09:26:13

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1	A	No.	09:26:16
2	Q	Okay. After IPS received the FOIA	09:26:16
3		request, what happened next?	09:26:20
4	A	The Requester Communication Branch	09:26:23
5		receives all incoming FOIA requests, reviews them to	09:26:27
6		ensure that they're complete, and assigns -- scans	09:26:32
7		them into the case processing system, assigns them a	09:26:35
8		case tracking number, and then passes them from data	09:26:38
9		entry to an initial processing officer for review.	09:26:42
10	Q	And on what date was this FOIA request	09:26:47
11		transferred to the case processing -- I'm sorry, the	09:26:50
12		case processing -- how did you describe that	09:26:53
13		employee? I'm sorry.	09:26:56
14	A	The initial processing officer.	09:26:57
15	Q	Initial processing officer.	09:26:59
16		When -- when was it transferred to the	09:27:01
17		initial processing officer?	09:27:02
18	A	It's -- it's not clear. It's clear that	09:27:05
19		the initial processing officer reviewed it on June	09:27:07
20		5th.	09:27:11
21	Q	And who was that initial processing	09:27:14
22		officer?	09:27:16

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1 A A former employee of the Department of 09:27:18
2 State named Holly Woodson. 09:27:20

3 Q Okay. And what happened next? 09:27:23

4 A The initial processing officer reviews a 09:27:26
5 FOIA request to ensure that it -- that it's a proper 09:27:30
6 request; in other words, it meets -- it is a request 09:27:34
7 for records that are reasonably likely to be in the 09:27:38
8 State Department's possession, that the request is 09:27:40
9 clear enough to be actionable, that it meets the 09:27:43
10 other requirements as noted on our website. 09:27:46

11 And that -- that officer then prepares the 09:27:52
12 draft response letter, the acknowledgment of receipt 09:27:54
13 letter to the -- to the requester, which indicates 09:27:57
14 things like the request for fee waiver, expedited 09:28:02
15 processing, those kinds of questions. 09:28:06

16 That officer prepares that -- that 09:28:09
17 requester letter, which is reviewed by a team leader 09:28:11
18 for accuracy and then approved. 09:28:14

19 Q And who was the team leader that reviewed 09:28:18
20 and approved the FOIA request introduced -- sorry, 09:28:21
21 the document introduced as Exhibit 1? 09:28:25

22 A I'm sorry. I don't have that information. 09:28:27

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1 Q Do you know who would have that 09:28:28
2 information? 09:28:30

3 A We can consult with IPS. 09:28:34

4 Q What happened next? 09:28:36

5 A The -- once the request is approved, again 09:28:39
6 the initial case processing officer makes sure that 09:28:42
7 that response is scanned into the case file, and 09:28:45
8 then passes it to the mail room to mail to the 09:28:48
9 requester. 09:28:51

10 Q Okay. What happens next? 09:28:52

11 A The case processing officer makes a 09:28:57
12 determination. The -- the Requester Liaison 09:29:00
13 Division is now finished with this FOIA case, and 09:29:05
14 typically finished with the FOIA case except for 09:29:10
15 perhaps case status inquiries that might come in 09:29:13
16 later. 09:29:17

17 At this point the Requester Liaison 09:29:17
18 Division transfers the case to the Compliance and 09:29:20
19 Research Division of IPS. And within the Compliance 09:29:23
20 and Research Division, the initial case processing 09:29:29
21 officer will send it to one of three branches. 09:29:31

22 Q Okay. When was it -- when was this 09:29:35

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1	specific FOIA request transferred to the Compliance	09:29:38
2	and Research Division?	09:29:41
3	A On June 10th.	09:29:41
4	Q Okay. And after it was transferred on	09:29:43
5	June 10th, what happened next?	09:29:51
6	A In -- in the branch that it was assigned	09:29:54
7	to, FOIA requests typically come in, are reviewed by	09:29:56
8	the branch chief and assigned to one of the case	09:30:01
9	analysts within that branch.	09:30:03
10	The case -- this case -- I'm sorry. I	09:30:08
11	misspoke.	09:30:17
12	Holly Woodson was the case analyst that	09:30:19
13	was assigned in compliance and research.	09:30:21
14	Q Okay. Do you recall the name of the	09:30:22
15	employee that you -- was that the management analyst	09:30:25
16	position? I forget how you identified her before,	09:30:30
17	but do you recall --	09:30:33
18	A The initial processing officer, I'm sorry,	09:30:34
19	we'll have to get that information from IPS.	09:30:36
20	Q Okay. Thank you.	09:30:39
21	So it was -- on June 10th it was assigned	09:30:43
22	to the case analyst. What branch? You said there	09:30:48

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1 were potentially three branches. What branch was 09:30:50
2 that case analyst in? 09:30:53

3 A A branch known as MPD, which is Management 09:30:54
4 and Public Diplomacy. 09:31:01

5 Q And what are the other two branches? 09:31:01

6 A The branches are divided up regionally and 09:31:03
7 functionally. The other two branches are EAN and 09:31:07
8 WHA. 09:31:14

9 Q What do they stand for? 09:31:14

10 A WHA stands for Western Hemisphere Affairs. 09:31:16
11 And EAN stands for East Asia -- I believe it is East 09:31:19
12 Asia, Africa, and Near East. 09:31:26

13 Q Okay. And so this specific FOIA request 09:31:28
14 was transferred to the -- 09:31:31

15 A We have a -- I'm sorry. I don't mean to 09:31:32
16 interrupt. 09:31:35

17 Q Oh, not a problem. 09:31:35

18 A We actually have an organization chart. 09:31:37
19 And I don't know if ... 09:31:42

20 Q Thank you. 09:32:11

21 MR. BEKESHA: Are these records being 09:32:22
22 produced today or being used for the witness's -- to 09:32:23

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1	refresh her recollection or --	09:32:27
2	MS. WOLVERTON: Yes. Yeah. She's using	09:32:29
3	them to refresh her recollection. We're happy to	09:32:32
4	give you a copy if you'd like.	09:32:35
5	MR. BEKESHA: That would be great. I	09:32:36
6	guess we could introduce it as Exhibit 2.	09:32:38
7	MS. WOLVERTON: Okay.	09:32:40
8	MR. BEKESHA: Do we want to introduce the	09:32:52
9	whole -- why don't we take a minute and go off the	09:32:53
10	record.	09:33:05
11	MS. WOLVERTON: Sure.	09:33:05
12	VIDEO SPECIALIST: We are going off the	09:33:05
13	record. The time is 9:33.	09:33:08
14	(A recess was taken.)	09:33:10
15	(Deposition Exhibit 2 marked for	09:33:10
16	identification and is attached to the transcript.)	09:34:20
17	VIDEO SPECIALIST: We are back on the	09:34:20
18	record. The time is 9:34.	09:34:23
19	BY MR. BEKESHA:	09:34:25
20	Q Thank you. And for the record, we have	09:34:26
21	marked the binder as Exhibit 2.	09:34:27
22	Ms. Lang, just for our reference, which	09:34:32

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1	tab were you just referring to?	09:34:35
2	A 7C.	09:34:38
3	Q And could you just identify what -- what	09:34:54
4	Tab 7C is, what are we looking at?	09:34:58
5	A Tab 7C is an organization chart of the	09:35:01
6	Office of Information Programs and Services.	09:35:04
7	Q Thank you.	09:35:12
8	So once the FOIA request was assigned to	09:35:13
9	the case analyst within the -- I forgot the initial.	09:35:20
10	A Management and Public Diplomacy branch.	09:35:27
11	Q Thank you. Within that branch, what	09:35:29
12	happened next?	09:35:31
13	A When a case analyst receives a FOIA	09:35:36
14	request, the case analyst analyzes the request to	09:35:37
15	determine which bureaus and offices or which records	09:35:40
16	in the department's possession should be searched	09:35:46
17	that would be reasonably likely to contain	09:35:49
18	responsive records.	09:35:55
19	Q Okay. And when did that -- and was a	09:35:56
20	determination made in this case where -- where --	09:35:58
21	where it should be transferred to next, what -- what	09:35:59
22	departments and bureaus may have potentially	09:36:02

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1 responsive records?

09:36:07

2 A The case analyst made a determination that
3 the Bureau of Human Resources would be the -- would
4 be the bureau that would be likely to have
5 responsive records.

09:36:08

09:36:11

09:36:15

09:36:20

6 She also made a determination that the
7 Central Foreign Policy files, which are controlled
8 by IPS, maintained within IPS, should be searched.

09:36:21

09:36:23

09:36:27

9 Q And when was that determination made?

09:36:33

10 A The tasking to the Bureau of Human
11 Resources was sent on June 17, 2003 -- 2013.

09:36:37

09:36:42

12 Q Excuse me. And what about the tasking for
13 the Central -- Central Foreign Policy records?

09:36:45

09:36:51

14 A That's not a tasking; that's a search that
15 the IPS analyst does him or herself.

09:36:53

09:36:55

16 Q Oh, okay. Thank you.

09:36:57

17 A Because it's internal to IPS.

09:36:59

18 Q Okay. And when was a search conducted of
19 the Central Foreign Policy records system?

09:37:00

09:37:03

20 A It's not clear that a search was conducted
21 prior to the case going into litigation.

09:37:10

09:37:14

22 Q Okay. Was any other departments or

09:37:16

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1	bureaus tasked at that time to conduct searches for	09:37:20
2	potentially responsive records?	09:37:25
3	A No.	09:37:28
4	Q Okay. When was the Office of the	09:37:28
5	Executive Secretariat determined to potentially have	09:37:33
6	responsive records?	09:37:38
7	A After the case went into litigation.	09:37:42
8	Q Do you have a specific date as to when	09:37:43
9	that happened?	09:37:45
10	A The case was transferred -- now, if you	09:37:45
11	look at the org chart.	09:37:49
12	Q Okay.	09:37:51
13	A When a case becomes the subject of	09:37:56
14	litigation under the FOIA, it is transferred from	09:37:59
15	the Statutory Compliance and Research Division, to	09:38:02
16	the Programs and Policies Division.	09:38:06
17	Within the Programs and Policies Division,	09:38:11
18	there is a branch called Litigations and Appeals.	09:38:14
19	So after the State Department was served, noticed	09:38:18
20	that the case had entered litigation, the case was	09:38:22
21	transferred to the Litigations and Appeals branch.	09:38:24
22	That transfer was September 23rd.	09:38:29

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1	Q	Okay. And who was assigned? Was a	09:38:33
2		individual assigned within the programs and	09:38:43
3		policies -- sorry, within the Litigation and Appeals	09:38:49
4		branch to the specific FOIA request?	09:38:52
5	A	Yes.	09:38:54
6	Q	Who was that person?	09:38:54
7	A	Two case analysts were assigned. Similar	09:38:56
8		to the other -- the Compliance and Research	09:39:00
9		Division, when a case comes into the Litigation and	09:39:04
10		Appeals, it will be assigned to one case analyst.	09:39:08
11		In this case it was assigned to two case analysts,	09:39:11
12		Saffie Goushe and Robert McNeary.	09:39:15
13	Q	Could you please spell both of those	09:39:18
14		names, to the best you can.	09:39:19
15	A	I can try. Saffie is I believe	09:39:21
16		S-A-F-F-I-E, G -- last name G-O-U-S-H-E.	09:39:28
17	Q	Okay. And the other -- the other	09:39:38
18		individual?	09:39:41
19	A	Robert, R-O-B-E-R-T, M-C-N-E-A-R-Y.	09:39:41
20	Q	And why were -- why was two case analysts	09:39:49
21		assigned to this specific FOIA request?	09:39:52
22	A	It's not clear from the record, but it's	09:39:56

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1 likely because one was training the other.

09:39:58

2 Q Which one was the trainee?

09:40:02

3 A Saffie Goushe was the more experienced
4 litigation analyst.

09:40:08

09:40:11

5 Q Okay. Thank you.

09:40:11

6 Besides having the file transferred to the
7 Litigation and Appeals branch upon the case -- the
8 lawsuit being filed, what else does the department
9 do once a case has been -- once litigation has
10 commenced?

09:40:17

09:40:22

09:40:26

09:40:30

09:40:33

11 MS. WOLVERTON: Objection. Vague and --
12 vague.

09:40:35

09:40:42

13 Q You may answer the question.

09:40:43

14 A When a case enters litigation, the Office
15 of the Legal Advisor becomes involved in consulting
16 with the Litigation and Appeals branch of IPS.

09:40:47

09:40:51

09:40:53

17 Q Do you know if a litigation hold or
18 similar notice is created or provided to anyone
19 within the department?

09:41:02

09:41:03

09:41:05

20 A Yes. When a case enters litigation, the
21 Litigation and Appeals branch takes a look at the
22 status of case processing at that -- at that time

09:41:09

09:41:12

09:41:16

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1 that it enters litigation and reviews what the 09:41:20
2 status is, takes appropriate steps depending on the 09:41:24
3 status of searches in the case. 09:41:27

4 Q Okay. So when the Litigation and Appeals 09:41:29
5 branch received this FOIA request, what did it do? 09:41:35

6 What were the next steps? 09:41:39

7 A It reviewed the pending searches. No 09:41:40
8 response had been received from the Bureau of Human 09:41:43
9 Resources at that point. And it determined that 09:41:46
10 additional -- additional locations within the 09:41:49
11 department should be tasked to conduct searches. 09:41:52

12 Q And what were those additional locations? 09:41:55

13 A The additional locations were the Office 09:41:59
14 of the Executive Secretariat and the Office of the 09:42:03
15 Legal Advisor. 09:42:05

16 Q Okay. And when was that determination 09:42:05
17 made? 09:42:07

18 A The taskings were sent out to those two 09:42:12
19 additional offices on the first of October. 09:42:15

20 Q And how are taskings sent out; what is the 09:42:18
21 process? 09:42:22

22 A Taskings -- are you familiar with the Form 09:42:27

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1	DS-1748?	09:42:29
2	Q I am not.	09:42:31
3	A Okay. The DS-1748 is a State Department	09:42:32
4	form that is used for tasking FOIA searches. It	09:42:37
5	is -- it is filled out by the analyst in IPS and	09:42:43
6	typically e-mailed to the relevant offices or	09:42:47
7	bureaus that are -- that are to conduct searches.	09:42:50
8	The form DS-1748 itself contains all the	09:42:55
9	basic information about the case and instructions	09:42:59
10	for conducting the search. It also has space for	09:43:02
11	the searchers to fill in the information about who	09:43:07
12	conducted the search, when the search was conducted,	09:43:10
13	which files were searched.	09:43:13
14	Q And who sent -- in this specific case, was	09:43:19
15	a tasking e-mail sent to the various departments?	09:43:21
16	A Yes.	09:43:24
17	Q When were those tasking e-mails sent?	09:43:25
18	A October 1st.	09:43:29
19	Q They were all sent on the same day?	09:43:30
20	A Yes.	09:43:32
21	Q Thank you. And who sent the tasking	09:43:32
22	e-mails?	09:43:35

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1	A	It was either Robert McNeary or Saffie	09:43:38
2		Goushe.	09:43:41
3	Q	Okay. Do you know which one of the two of	09:43:41
4		them decided that additional offices should be	09:43:43
5		tasked?	09:43:46
6	A	No.	09:43:48
7	Q	Okay. With respect to the Office of the	09:43:48
8		Executive Secretariat, who -- where was that e-mail	09:43:56
9		sent? Where was the tasking e-mail sent?	09:43:58
10	A	It was sent to Clarence Finney, the	09:44:02
11		Director of the Office of Correspondence and	09:44:04
12		Records.	09:44:07
13		Correction. At that point it was the	09:44:08
14		Division of Correspondence and Records within the	09:44:10
15		Executive Secretariat staff.	09:44:13
16	Q	Okay. Do you know when he received that	09:44:14
17		e-mail, when he opened the e-mail and read it?	09:44:25
18	A	October 1st.	09:44:26
19	Q	Okay. So what happened next? What did	09:44:27
20		Mr. Finney do once he received on October 1st the	09:44:29
21		task -- the tasking e-mail?	09:44:34
22	A	Mr. Finney assigned -- when -- when a FOIA	09:44:37

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1	request is received from IPS to the Executive	09:44:42
2	Secretariat to the Correspondence and Records	09:44:49
3	Division, typically the Deputy Director, Clarence	09:44:51
4	Finney, reviews the tasking to determine what	09:44:55
5	searches should be conducted, where they should be	09:45:00
6	conducted, based on the content of the request	09:45:03
7	itself.	09:45:11
8	Q Okay. And did that happen in this case?	09:45:11
9	A Yes.	09:45:13
10	Q So what did -- what did Mr. Finney decide	09:45:13
11	after reviewing the tasking e-mail?	09:45:17
12	A He decided that the management analyst	09:45:19
13	within Correspondence and Records should conduct a	09:45:25
14	search.	09:45:27
15	Q And how did he -- did he then notify the	09:45:34
16	management analyst of this determination?	09:45:36
17	A Yes.	09:45:38
18	Q Who was that management analyst?	09:45:38
19	A Jonathon Wasser.	09:45:40
20	Q And how did he notify Mr. Wasser of his	09:45:42
21	determination?	09:45:46
22	A Typically because there's an e-mail that	09:45:51

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1 has come from IPS, the Deputy Director forwards the 09:45:52
2 e-mail to the management analyst because it contains 09:45:57
3 the attachment that is the DS-1748 form I referred 09:45:59
4 to earlier. 09:46:03

5 Q Thank you. Do you know when Mr. Finney 09:46:04
6 forwarded that e-mail to Mr. Wasser? 09:46:10

7 A I don't know the exact date. 09:46:13

8 Q Do you have roughly -- do you have an 09:46:14
9 approximate date or roughly the time period that 09:46:18
10 that happened? 09:46:20

11 A October 2013. 09:46:21

12 Q Okay. Do you know if Mr. Finney -- 09:46:21
13 what -- did Mr. Finney write anything additional 09:46:30
14 besides, or did he just forward the e-mail along to 09:46:33
15 Mr. Wasser? 09:46:36

16 A Just -- taskers are really very 09:46:38
17 self-explanatory. 09:46:42

18 As I said, they -- they contain all the 09:46:43
19 information necessary to conduct the search. 09:46:46

20 Q Okay. So in this tasker, what offices 09:46:48
21 within the Office of the Executive Secretary were to 09:46:58
22 be searched? Did the tasker identify specific 09:47:02

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1 individuals or divisions within the general Office 09:47:04
2 of the Executive Secretariat? 09:47:07

3 MS. WOLVERTON: Objection. Compound. 09:47:07

4 Q You may answer the question. 09:47:10

5 A The DS-1748 that comes from IPS does not 09:47:12
6 go into that level of detail. The IPS sends a 09:47:17
7 search tasker to an office or a bureau. Within that 09:47:23
8 office or bureau, the bureau coordinator determines 09:47:28
9 which components should conduct searches. 09:47:31

10 Q Okay. So is that bureau coordinator, 09:47:37
11 would that have been Mr. Wasser? 09:47:41

12 A No. The bureau coordinator is Mr. Finney. 09:47:43

13 Q Okay. So Mr. Finney determined which 09:47:46
14 offices or divisions should be searched? 09:47:48

15 A Yes. 09:47:51

16 Q Okay. What offices or divisions did 09:47:52
17 Mr. Finney in this case determine needed to be 09:47:56
18 searched? 09:47:58

19 A Mr. Finney determined that within the 09:48:01
20 Executive Secretariat staff, certain databases 09:48:03
21 should be searched. That was what was assigned to 09:48:06
22 Jonathon Wasser. 09:48:08

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1 Additionally, he determined that the 09:48:10
2 Office of the Executive Director within the 09:48:14
3 Executive Secretariat should conduct a search. 09:48:18

4 Q Okay. And how did he inform Mr. Wasser 09:48:20
5 which databases in the Office of the Executive 09:48:26
6 Director should be searched? 09:48:31

7 A I don't know that he informed him 09:48:32
8 specifically in this case which databases to search. 09:48:34
9 But Mr. Wasser, as an experienced management 09:48:42
10 analyst, was familiar with the databases that were 09:48:44
11 under the control of Correspondence and Records and 09:48:46
12 available to search. 09:48:52

13 Q Okay. So Mr. Wasser received this task in 09:48:52
14 October of 2013. What did he do once he received 09:48:58
15 that task? 09:49:05

16 A He conducted searches in November of 2013. 09:49:06

17 Q And what searches did he conduct? 09:49:09

18 A He searched the STARS database, the CARS 09:49:12
19 database, the STEPS database. 09:49:19

20 Q Could you -- let's just talk about each of 09:49:25
21 those very briefly. 09:49:27

22 What does STARS stand for? 09:49:29

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1 A STARS stands for Secretariat tracking and 09:49:31
2 retrieval system. 09:49:33

3 Q And what types of records are within the 09:49:35
4 STARS database? 09:49:38

5 A At the time STARS was the official 09:49:39
6 repository for all memoranda and records of the 09:49:40
7 Office of the Secretary, Deputy Secretaries, and 09:49:44
8 Under Secretaries, including briefing material, 09:49:48
9 information memos, action memos, any kind of meeting 09:49:52
10 preparatory information or official decisions, 09:49:59
11 official correspondence of the Secretary and other 09:50:03
12 department principals. 09:50:05

13 It was at the time the main repository of 09:50:06
14 information coming from the Office of the Secretary 09:50:09
15 and of information going to the Office of the 09:50:11
16 Secretary. 09:50:15

17 Q Did the STARS database include e-mails of 09:50:15
18 the Secretary or other principals? 09:50:19

19 A The STARS database was not an e-mail 09:50:24
20 archiving system. However, STARS had the capacity 09:50:26
21 to store a variety of types of media, including 09:50:30
22 e-mails. And there were some e-mails, there are 09:50:34

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1 some e-mails stored in STARS.

09:50:37

2 Q Generally how do the e-mails make their
3 way into STARS?

09:50:39

09:50:42

4 A The e-mails that made their way into STARS
5 did not do so electronically automatically. They
6 mostly made their way into STARS through what we
7 call out-boxing.

09:50:43

09:50:47

09:50:51

09:50:56

8 Q What -- what is that?

09:50:57

9 A Out-boxing, any -- any material that is
10 seen by the Secretary and ends up in his or her
11 outbox is generally bundled up by support staff and
12 passed to Correspondence and Records, where it's
13 recorded. Material that has been seen by the
14 Secretary or material that has handwritten notes,
15 for example, by the Secretary.

09:50:59

09:51:03

09:51:08

09:51:13

09:51:16

09:51:18

09:51:22

16 Q How would an e-mail end -- make its way to
17 the outbox? Is that just a printing type?

09:51:24

09:51:27

18 A Printing and filing.

09:51:30

19 Q Okay.

09:51:32

20 A Printing.

09:51:32

21 Q So somebody would have to print and then
22 file it or place it in the outbox for it to then

09:51:32

09:51:34

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1	make its way into STARS?	09:51:38
2	A Correct.	09:51:40
3	Q Okay. You said STEPS was also searched.	09:51:40
4	What does STEPS stands -- stand for?	09:51:44
5	A STEPS stood for state telegram electronic	09:51:47
6	processing system.	09:51:53
7	This is a legacy system that is no longer	09:51:54
8	used.	09:51:56
9	Q And what types of records was within	09:51:58
10	STEPS?	09:52:03
11	A STEPS contained telegrams, official	09:52:03
12	cable -- cable telegrams that were sent to or from	09:52:07
13	the department between the department and its -- and	09:52:10
14	its overseas posts.	09:52:13
15	Q Okay. And were e-mails part of that	09:52:14
16	system?	09:52:17
17	A No.	09:52:17
18	Q Okay. And you mentioned CARS. What does	09:52:18
19	CARS stand for?	09:52:21
20	A CARS stands for cable archiving and	09:52:23
21	retrieval system. Similar to STEPS, it was a legacy	09:52:26
22	system for capturing cable traffic between the	09:52:29

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1	department and posts.	09:52:33
2	Q So CARS also wouldn't include e-mails --	09:52:34
3	A No.	09:52:38
4	Q -- is that correct? Okay.	09:52:38
5	Were top -- were the top-secret files	09:52:40
6	searched in response to this FOIA request?	09:52:43
7	MS. WOLVERTON: Objection. Lack of	09:52:46
8	foundation, and vague.	09:52:48
9	Q You may answer the question.	09:52:49
10	A I don't believe so.	09:52:54
11	Q Okay. Could you just identify -- taking a	09:52:55
12	step back. The top secret -- top-secret files, is	09:52:59
13	that another database within the Office of the	09:53:02
14	Executive Secretariat?	09:53:06
15	A No. Those are hard-copy files.	09:53:06
16	Q Okay. And where are those -- who are	09:53:07
17	those kept by?	09:53:11
18	A By the Office of Correspondence and	09:53:13
19	Records.	09:53:15
20	Q Okay. Thank you.	09:53:15
21	Was the Everest -- is Everest another	09:53:17
22	records-management or records-archiving system?	09:53:21

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1	A	Everest is the successor to STARS, yes.	09:53:24
2	Q	Do you know when Everest started, when it	09:53:26
3		took over for STARS?	09:53:31
4	A	STARS ceased accepting new entries January	09:53:34
5		1st, 2015.	09:53:38
6	Q	Is SMART another records system?	09:53:47
7	A	Yes.	09:53:50
8	Q	Okay. What does SMART stand for?	09:53:50
9	A	I believe it stands for state messaging	09:53:57
10		archival retrieval tracking? I'm sorry, I don't	09:54:01
11		know exactly what the acronym stands for.	09:54:05
12	Q	If I say it's state messaging and archive	09:54:07
13		retrieval tool set, does that sound right?	09:54:12
14	A	It sounds like I was pretty close.	09:54:14
15	Q	Yes. I thought I would help you out	09:54:16
16		there.	09:54:18
17		Could you just talk briefly what types of	09:54:18
18		records or what the SMART system is?	09:54:20
19	A	SMART took the place of all these legacy	09:54:24
20		systems for the archiving of cable traffic between	09:54:27
21		the department and overseas posts. So that's why I	09:54:32
22		said we would no longer search the CARS or STEPS	09:54:37

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1 database. Because all that information would be in 09:54:43

2 the Central Foreign Policy files through SMART. 09:54:45

3 Q Okay. And when did -- when did SMART take 09:54:50
4 effect? 09:54:53

5 A I'm sorry. And SMART is also a -- a -- a 09:54:53
6 tool for creating record e-mails. 09:55:00

7 Q What do you mean by that? 09:55:02

8 A SMART has a function that allows a sender 09:55:08
9 to -- to make an e-mail, a record e-mail, that puts 09:55:13
10 it in the central searchable archive. 09:55:18

11 Q Okay. What -- and how is that process 09:55:21
12 done? 09:55:25

13 A It's done very similar to creating a 09:55:28
14 cable. It's done at a user's desktop. 09:55:31

15 Q Okay. So the user has to take a couple 09:55:33
16 steps. Is it a couple of steps, is it clicking a 09:55:36
17 button? I'm just trying to get a sense of what 09:55:39
18 action is required to make it part of the SMART 09:55:42
19 system. 09:55:44

20 A It's a series of essentially clicks and 09:55:45
21 check boxes and drop-down menus. 09:55:48

22 Q Okay. And when did the SMART system take 09:55:52

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1 effect?

09:55:54

2 A I believe SMART was introduced in the
3 department in 2009, but it was -- SMART was rolled
4 out over a period of years.

09:55:55

09:55:58

09:56:02

5 Q Okay. What --

09:56:05

6 A If you want more details on that, I will
7 take that back and get back to you.

09:56:06

09:56:09

8 Q Who would -- who would have the answers?
9 Who would be best knowledgeable about the SMART
10 system and the rollout?

09:56:10

09:56:14

09:56:17

11 A The Bureau of Information Resource and
12 Management, IRM.

09:56:18

09:56:21

13 Q Okay. When -- you said it generally
14 was -- the rollout started in January of 2009. When
15 was it -- was it rolled out at that time for the
16 Office of the Secretary?

09:56:22

09:56:27

09:56:31

09:56:33

17 MS. WOLVERTON: At this point I'm going to
18 object to this line of question as straying fairly
19 far beyond the scope of the notice 30(b)(6)
20 deposition topic and on that basis instruct the
21 witness not to answer.

09:56:34

09:56:35

09:56:39

09:56:42

09:56:45

22 MR. BEKESHA: Sure.

09:56:46

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1 Q You said the e-mails would have -- could 09:56:47
2 be part of the SMART system. Is that correct? 09:56:53

3 A Yes. E-mails could be part of the SMART 09:56:58
4 system. 09:57:00

5 Q Okay. Were e-mails of Mrs. Clinton, would 09:57:00
6 those have been placed within the SMART system? 09:57:05

7 A The Executive Secretariat is -- has its 09:57:09
8 own information management IT shop, which is known 09:57:14
9 by the acronym S/ES-IRM. And S/ES-IRM does not use 09:57:18
10 the SMART system. 09:57:24

11 Q Okay. So Mrs. Clinton's e-mails would not 09:57:25
12 have been part of the SMART system. 09:57:29

13 Is that correct? 09:57:32

14 A Any -- any office supported by S/ES-IRM is 09:57:33
15 not part of the SMART e-mail system. That includes 09:57:37
16 the Office of the Secretary, the two deputy 09:57:40
17 secretaries, and the under secretaries. 09:57:44

18 Q Okay. Thank you. 09:57:46

19 Is RIMS another database records 09:57:49
20 management system? 09:57:52

21 A That is the database that is searched by 09:57:54
22 IPS. 09:57:57

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1	Q	Okay. And what does RIMS stand for?	09:57:58
2	A	I think it's record information management	09:58:05
3		system. I can confirm that to you.	09:58:09
4	Q	Okay. Thank you.	09:58:10
5		Going back to the searches that were --	09:58:16
6		strike that.	09:58:20
7		So Mr. Wasser, you said he conducted	09:58:20
8		searches of STARS, STEPS, and CARS, in November of	09:58:25
9		2013. Is that correct?	09:58:29
10	A	Yes.	09:58:31
11	Q	Did he search any other databases?	09:58:32
12	A	No.	09:58:36
13	Q	Did he search anywhere else for records	09:58:40
14		responsive to this FOIA request?	09:58:44
15	A	No.	09:58:46
16	Q	Did he instruct anybody else to search for	09:58:46
17		records responsive to this FOIA request?	09:58:49
18	A	No.	09:58:50
19	Q	Okay. Were individual employees within	09:58:51
20		the office -- were records within the office --	09:59:00
21		strike that. Excuse me.	09:59:03
22		Were records searched for -- records of	09:59:04

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1 individual employees within the Office of the 09:59:09
2 Secretary, were their records searched in response 09:59:10
3 to this FOIA request? 09:59:13

4 MS. WOLVERTON: Objection. Beyond the 09:59:15
5 scope of the notice 30(b)(6) topic. I'll instruct 09:59:16
6 the witness not to answer. 09:59:19

7 Q Was Mrs. Clinton's e-mail searched in 09:59:21
8 response to this FOIA request at that time, in 09:59:24
9 November 2013? 09:59:29

10 A In November 2013, former Secretary 09:59:31
11 Clinton's e-mails were not in the possession or 09:59:35
12 control of the State Department so could not have 09:59:37
13 been searched in response to a FOIA request. 09:59:40

14 Q Why were they not in the possession and 09:59:44
15 control of the State Department? 09:59:47

16 A Secretary Clinton turned over her e-mails 09:59:50
17 to the State Department in December of 2014. 09:59:54

18 Q Was there a determination made at any 10:00:00
19 point that Mrs. Clinton's e-mail records were not 10:00:02
20 within the custody and control of the State 10:00:05
21 Department? 10:00:08

22 MS. WOLVERTON: Objection. Beyond the 10:00:08

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1	scope of the notice 30(b)(6) topic.	10:00:09
2	I'll instruct the witness not to answer.	10:00:13
3	Q When reviewing -- when responding to	10:00:16
4	FOIA -- when responding to this FOIA request, was a	10:00:19
5	determination made that Mrs. Clinton's e-mails were	10:00:21
6	not subject -- were not part of the custody and	10:00:23
7	control of the State Department?	10:00:26
8	A Can you clarify the time frame that you're	10:00:31
9	speaking about?	10:00:33
10	Q Sure. The time frame would be between the	10:00:34
11	FOIA request being sent in May 21st, 2013, and the	10:00:38
12	date of the response, February 12th, 2014.	10:00:49
13	Was a determination made during that time	10:00:52
14	period, when responding to this FOIA request, that	10:00:55
15	Mrs. Clinton's e-mails were not under the custody	10:00:59
16	and control of the State Department?	10:01:03
17	MS. WOLVERTON: Objection. Beyond the	10:01:06
18	scope of the notice 30(b)(6) topic.	10:01:07
19	I'll direct the witness not to answer.	10:01:09
20	MR. BEKESHA: And this goes to the search,	10:01:11
21	the FOIA search that was conducted of Mrs. Clinton's	10:01:14
22	e-mails. It's definitely within the scope of the	10:01:17

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1	30(b)(6).	10:01:20
2	MS. WOLVERTON: Can you repeat the	10:01:22
3	question?	10:01:23
4	MR. BEKESHA: Sure.	10:01:24
5	BY MR. BEKESHA:	10:01:24
6	Q When conducting a search for records	10:01:24
7	responsive to Mrs. -- responsive to the FOIA request	10:01:29
8	at issue in this case between May 21st, 2013, and	10:01:31
9	February 12th, 2014, was a determination made that	10:01:34
10	Mrs. Clinton's e-mails were not under the custody	10:01:39
11	and control of the State Department and, therefore,	10:01:42
12	did not have to be searched in response to this FOIA	10:01:45
13	request?	10:01:48
14	MS. WOLVERTON: You may answer.	10:01:52
15	A No.	10:01:54
16	Q Was a FOIA -- was that determination made	10:01:54
17	previous to this time period and relied upon when	10:01:58
18	responding to the FOIA request at issue in this case	10:02:01
19	during that time period I just identified?	10:02:05
20	A No.	10:02:09
21	Q So why was it the State Department's	10:02:09
22	position to not search Mrs. Clinton's e-mails	10:02:13

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1 because they were -- the State Department thought 10:02:17

2 they were outside the custody and control of it? 10:02:20

3 MS. WOLVERTON: Objection. Asked and 10:02:22

4 answered. 10:02:24

5 Q You may answer the -- 10:02:25

6 MS. WOLVERTON: And mischaracterizing 10:02:27

7 former testimony. 10:02:29

8 Q You may answer the question. 10:02:30

9 A No one engaged in this FOIA search had 10:02:33

10 awareness of that source of potentially responsive 10:02:37

11 documents during the time period of this FOIA 10:02:41

12 search. The time period that you list between May 10:02:46

13 21st, 2013, and February 2nd, 2014, no one engaged 10:02:49

14 in this FOIA search had the awareness of that source 10:02:57

15 of potentially responsive documents. 10:02:59

16 Q So the reason -- I guess go back because 10:03:01

17 I'm not sure you answered this question, then, in 10:03:17

18 light of that answer. 10:03:19

19 Why were -- was it -- was a determination 10:03:20

20 made that Mrs. Clinton's e-mails would not be 10:03:23

21 potentially responsive to this FOIA request or that 10:03:28

22 they weren't available to the State Department at 10:03:32

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1	that time?	10:03:35
2	MS. WOLVERTON: Objection. Asked and	10:03:35
3	answered.	10:03:36
4	Q You can answer the question.	10:03:37
5	A Neither.	10:03:43
6	Q So no -- did anybody -- did Mr. Wasser	10:03:44
7	think that -- make a determination that	10:03:51
8	Mrs. Clinton's e-mails may contain records	10:03:53
9	responsive to this FOIA request?	10:03:58
10	MS. WOLVERTON: Objection. Lack of	10:04:00
11	foundation.	10:04:01
12	Q You can answer the question.	10:04:02
13	A The people engaged in the day-to-day	10:04:03
14	activity of searching for records responsive to this	10:04:06
15	request were not aware of that source of potentially	10:04:09
16	responsive documents; therefore, they could not make	10:04:14
17	a determination of whether that source would be	10:04:18
18	responsive or not.	10:04:20
19	Q What does that mean? I guess I'm -- I	10:04:22
20	have understanding what you mean that they were not	10:04:25
21	aware of that source. Could you explain what you	10:04:26
22	mean by that.	10:04:29

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1 A They were not aware of the existence of 10:04:31
2 e-mails from the former Secretary that could be 10:04:35
3 potentially responsive to this request. 10:04:39

4 Q So is it my understanding that individuals 10:04:42
5 within the Office of Correspondence and Records did 10:04:45
6 not know Mrs. Clinton was using e-mail to -- for 10:04:49
7 work-related purposes? 10:04:53

8 MS. WOLVERTON: Objection. Lack of 10:04:55
9 foundation, vague. 10:04:56

10 Q You can answer the question. 10:04:58

11 A Can you clarify the time period? 10:05:00

12 Q The time period would be starting January 10:05:02
13 21st, 2009, through -- through November -- well, 10:05:07
14 through February 12th, 2014. 10:05:18

15 MS. WOLVERTON: Same objections. 10:05:24

16 Q You may answer the question. 10:05:25

17 A And can you -- can you phrase the question 10:05:27
18 again so I'm sure I understand it? 10:05:29

19 Q Sure. Is it -- did the Office of 10:05:31
20 Correspondence and Records between that time period 10:05:38
21 of January 2009 and February 2013, was it their 10:05:39
22 belief that Mrs. Clinton did not use e-mail for 10:05:47

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1	work-related purposes?	10:05:50
2	A Yes.	10:05:52
3	Q Did that include -- was that -- does that	10:05:52
4	include Mr. Finney?	10:05:57
5	A Yes.	10:05:58
6	Q Did that include the Deputy Executive	10:05:59
7	Secretaries that oversaw that office?	10:06:04
8	A I can't answer that --	10:06:14
9	Q Do you know who would be --	10:06:14
10	A -- definitively.	10:06:18
11	Q -- able to answer that?	10:06:18
12	A We can get back to you on that.	10:06:20
13	Q Okay. Thank you.	10:06:21
14	Do you know if the Executive Secretariat,	10:06:22
15	those that oversaw the Deputy Director, if they knew	10:06:24
16	during that time period that Mrs. Clinton used	10:06:27
17	e-mail to -- for work-related purposes?	10:06:31
18	MS. WOLVERTON: Objection. Beyond the	10:06:33
19	scope of the notice 30(b)(6) topic.	10:06:34
20	I'll instruct the witness not to answer.	10:06:39
21	MR. BEKESHA: I mean, again, this goes to	10:06:42
22	the processing of FOIA requests and how -- and how	10:06:44

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1	specifically this FOIA request was processed.	10:06:46
2	MS. WOLVERTON: I'll also add lack of	10:06:49
3	foundation. And instruct the witness not to answer	10:06:50
4	based on the beyond the scope.	10:06:56
5	You haven't established that those	10:06:58
6	individuals were involved in the FOIA processing.	10:07:00
7	MR. BEKESHA: Sure.	10:07:03
8	Q Would the deputy -- between 2009, January	10:07:04
9	2009, and we'll start off -- and -- and February 12,	10:07:20
10	2014, would the deputy -- would the Executive	10:07:27
11	Secretariat be involved in FOIA -- responding to	10:07:30
12	FOIA requests that were subject -- that may contain	10:07:33
13	Mrs. Clinton's e-mails?	10:07:37
14	A The Executive Secretariat, not the	10:07:39
15	Executive Secretariat staff?	10:07:42
16	Q Correct.	10:07:44
17	A The broader Executive Secretariat?	10:07:44
18	Q The Executive Secretary.	10:07:47
19	A I'm sorry. Are you referring to an	10:07:50
20	individual, to a title, a person in a specific job	10:07:51
21	title or the whole organization?	10:07:53
22	Q A specific person. So the Executive	10:07:55

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1 Secretary that would have been Dan Smith, followed 10:07:57
2 by Stephen Mull, and then I don't know the names of 10:08:01
3 the individuals that followed within that position. 10:08:06

4 But that -- that Executive Secretary 10:08:09
5 position, would they have been involved in FOIA 10:08:10
6 requests related to e-mails of Mrs. Clinton during 10:08:14
7 that time period? 10:08:17

8 A The Executive Secretary is the overall 10:08:19
9 head of the Executive Secretariat, of which the 10:08:22
10 secretariat staff and the former Office of 10:08:25
11 Correspondence and Records is a component part. 10:08:31

12 The Executive Secretary has overall 10:08:32
13 responsibility for that, for the secretariat, but is 10:08:35
14 not involved in the day-to-day work of searching for 10:08:39
15 FOIA. 10:08:42

16 Q Would issues related to FOIA requests that 10:08:43
17 involved the Secretary of State rise to the level, 10:08:46
18 not on a day-to-day basis, but when problems arose, 10:08:50
19 to the Executive Secretary position? 10:08:54

20 MS. WOLVERTON: Objection. Vague. 10:08:56

21 Q You can answer the question. 10:08:58

22 A Occasionally. 10:09:00

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1	Q	Okay.	10:09:00
2		MS. WOLVERTON: We've been going for about	10:09:02
3		an hour. Could we take a break?	10:09:04
4		MR. BEKESHA: Sure.	10:09:05
5		VIDEO SPECIALIST: This marks the end of	10:09:06
6		Tape Number 1 in the deposition of Karin Lang. We	10:09:07
7		are off the record at 10:09.	10:09:11
8		(A recess was taken.)	10:09:21
9		VIDEO SPECIALIST: Here begins Tape Number	10:23:41
10		2 in the deposition of Karin Lang. We are back on	10:23:44
11		the record at 10:23.	10:23:48
12		MR. BEKESHA: Thank you.	10:23:50
13		BY MR. BEKESHA:	10:23:50
14	Q	Going back to where I think we left off	10:23:54
15		questions. Between the time period of January 21st,	10:23:56
16		2009, and February 12th, 2014, why was the Office of	10:24:04
17		Correspondence and Records not aware that	10:24:11
18		Mrs. Clinton did use e-mail to -- for work-related	10:24:13
19		purposes?	10:24:17
20	A	Can you be more specific?	10:24:21
21	Q	Sure. The Office of Correspondence and	10:24:23
22		Records was in -- was responsible for processing,	10:24:27

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1	storing, archiving Mrs. Clinton's records; wasn't	10:24:33
2	it?	10:24:36
3	A Yes.	10:24:41
4	Q So they would know what record systems or	10:24:42
5	what systems and how Mrs. Clinton communicated;	10:24:44
6	wouldn't they?	10:24:49
7	A The Secretary did not use a State.gov	10:24:50
8	e-mail account.	10:24:54
9	Q Did the Office of Correspondence and	10:24:57
10	Records during that time period know that	10:24:58
11	Mrs. Clinton did not use a State.gov e-mail account?	10:25:00
12	A Yes.	10:25:04
13	Q How did they know that?	10:25:04
14	A When Mrs. -- when former Secretary Clinton	10:25:07
15	came to the State Department in early 2009, as part	10:25:10
16	of her transition the question was raised would she	10:25:16
17	have a State.gov e-mail account, and the transition	10:25:21
18	team advised that she would not. Like her	10:25:24
19	predecessor, she would not have an e-mail account.	10:25:28
20	Q Do you know when specifically that	10:25:30
21	question was asked?	10:25:32
22	A No.	10:25:34

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1	Q	Do you know who asked that question?	10:25:34
2	A	No.	10:25:37
3	Q	Do you know who answered that question?	10:25:38
4	A	No.	10:25:41
5	Q	Do you know when that question was	10:25:41
6		answered?	10:25:43
7	A	No.	10:25:44
8	Q	Do you know who would know the answers to	10:25:46
9		those questions?	10:25:48
10	A	Not specifically.	10:25:49
11	Q	What about generally; what offices	10:25:51
12		specifically would have been responsible for asking	10:25:54
13		Mrs. Clinton's transition team if she were to be	10:25:57
14		using a State.gov e-mail account?	10:26:00
15	A	The Executive Secretary led the	10:26:02
16		transition.	10:26:04
17	Q	And who was the Executive Secretary at the	10:26:06
18		time?	10:26:09
19	A	The Executive Secretary at the time was	10:26:09
20		Daniel Smith.	10:26:11
21	Q	And did the Office of Correspondence and	10:26:12
22		Records -- let's go with between 2009 and 2013 --	10:26:18

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1	ever follow up with requests to see if Mrs. Clinton	10:26:24
2	may have changed her mind or subsequently was using	10:26:28
3	a State.gov e-mail account?	10:26:30
4	MS. WOLVERTON: Objection -- objection.	10:26:32
5	Compound and vague.	10:26:34
6	Q You may answer the question.	10:26:36
7	A Yes.	10:26:38
8	Q And when did that followup take place?	10:26:38
9	A The -- the Office of Correspondence and	10:26:44
10	Records was in constant communication with the S/ES	10:26:47
11	component that provides IT support to the Secretary	10:26:51
12	and other principals. S/ES-IRM.	10:26:54
13	Q So at some point during Mrs. Clinton's	10:26:58
14	tenure, the Office of Correspondence and Records	10:27:01
15	asked S/ES-IRM whether Mrs. Clinton was using a	10:27:06
16	State.gov e-mail account?	10:27:10
17	A Yes.	10:27:11
18	Q When did that take -- when did that	10:27:12
19	happen?	10:27:15
20	A Initially the Office of Correspondence and	10:27:16
21	Records was informed by S/ES-IRM that Secretary	10:27:19
22	Clinton would not have an e-mail account.	10:27:24

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1	Q	When did that initial -- when were they	10:27:28
2		initially informed?	10:27:30
3	A	Sometime in the time frame of the end of	10:27:32
4		2008 to early 2009.	10:27:35
5	Q	Do you know who within the Office of	10:27:39
6		Correspondence and Records was informed of that?	10:27:42
7	A	Clarence Finney.	10:27:44
8	Q	And do you know who informed him of that?	10:27:45
9	A	No.	10:27:50
10	Q	Did -- was the office -- did the office	10:27:50
11		of -- did IRM inform Mr. Finney that Mrs. Clinton	10:27:57
12		would be using an e-mail account, while she was	10:28:03
13		Secretary of State, for work-related purposes?	10:28:07
14	A	No.	10:28:09
15	Q	Did Mr. Finney ask IRM whether	10:28:10
16		Mrs. Clinton was going to be using any e-mail	10:28:15
17		address to conduct government business while she was	10:28:18
18		Secretary of State?	10:28:27
19	A	Can you clarify the question?	10:28:28
20	Q	Sure. When IRM informed Mr. Finney that	10:28:29
21		Mrs. Clinton would not be using a State.gov e-mail	10:28:32
22		account, did Mr. Finney at that point or a	10:28:34

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1	subsequent point ask IRM if Mrs. Clinton was going	10:28:38
2	to be using another e-mail -- a non-State.gov e-mail	10:28:41
3	account for work-related purposes?	10:28:45
4	A No.	10:28:47
5	Q He did not ask, or you don't know if he	10:28:48
6	asked? Sorry, I was just unclear on your answer.	10:28:50
7	A No, he did not ask.	10:28:53
8	Q Okay. And you said that there were	10:28:54
9	communications between the Office of Correspondence	10:28:58
10	and Records and IRM at other points about whether or	10:29:00
11	not Mrs. Clinton was using a State.gov e-mail	10:29:04
12	account? Is that correct?	10:29:07
13	MS. WOLVERTON: Objection.	10:29:09
14	Mischaracterizing former testimony, and I would just	10:29:10
15	ask you to clarify which IRM you are referring to.	10:29:16
16	MR. BEKESHA: Sure. I'm sorry.	10:29:19
17	Q The S/ES-IRM.	10:29:20
18	Were there subsequent conversations	10:29:23
19	related to Mrs. Clinton's -- whether or not	10:29:26
20	Mrs. Clinton was using a State.gov e-mail account	10:29:29
21	between S/ES-IRM and the Office of Correspondence	10:29:32
22	and Records?	10:29:36

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1	A	Yes.	10:29:37
2	Q	And when did those conversations or	10:29:37
3		discussions take place?	10:29:39
4	A	In -- when Mrs. Clinton's photo appeared	10:29:43
5		in the media with her using -- appearing to use some	10:29:47
6		sort of a mobile device, Clarence Finney checked	10:29:52
7		with S/ES-IRM to confirm whether or not she still --	10:29:58
8		whether the answer was still that she did not have a	10:30:03
9		State.gov e-mail account.	10:30:06
10	Q	Do you recall the time period of that?	10:30:07
11	A	Not specifically.	10:30:11
12	Q	Okay. What did IRM -- in response to that	10:30:12
13		question by Mr. Finney, what did S/ES-IRM inform	10:30:18
14		Mr. Finney?	10:30:23
15	A	That she still did not have a State.gov	10:30:24
16		e-mail account.	10:30:27
17	Q	How do you know this?	10:30:27
18	A	Through conversations with Clarence	10:30:29
19		Finney.	10:30:30
20	Q	Okay. What else -- what else -- what else	10:30:30
21		did they discuss at that time?	10:30:40
22		MS. WOLVERTON: Objection. Vague. And	10:30:41

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1	extends beyond the notice 30(b)(6) topic.	10:30:43
2	I'll instruct the witness not to answer.	10:30:46
3	MR. BEKESHA: Sure.	10:30:48
4	Q Regarding -- did Mr. Finney follow up with	10:30:49
5	IRM after that about whether or not Mrs. Clinton was	10:30:56
6	using a State.gov e-mail account?	10:31:01
7	A Not that I'm aware.	10:31:06
8	Q Okay. Do you know if IRM -- S/ES-IRM	10:31:06
9	informed -- sorry. Let me take a step back.	10:31:13
10	Do you know who Mr. Finney was having that	10:31:17
11	conversation with --	10:31:19
12	MS. WOLVERTON: Objection. Asked and	10:31:19
13	answered.	10:31:20
14	Q -- at S/ES-IRM?	10:31:20
15	A No, not specifically.	10:31:26
16	Q Do you know who would know the answer to	10:31:26
17	that question?	10:31:28
18	A Not specifically.	10:31:29
19	Q Would Mr. Finney have the answer to that	10:31:30
20	question? Would he know who he spoke with?	10:31:33
21	A He indicates he does not recall.	10:31:36
22	Q How many times have you spoken with	10:31:38

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1	Mr. Finney about Mrs. Clinton's -- about FOIA	10:31:42
2	requests related to -- let's take a step back.	10:31:48
3	When you first started as Director, did	10:31:53
4	you speak with Mr. Finney about e-mail records of	10:31:58
5	Mrs. Clinton as they would relate to FOIA requests?	10:32:03
6	MS. WOLVERTON: Objection. Extends beyond	10:32:07
7	the scope of the notice 30(b)(6) topic.	10:32:10
8	I'll instruct the witness not to answer.	10:32:13
9	Q When did you speak to Mr. Finney about the	10:32:16
10	testimony you just gave?	10:32:20
11	A Over the past two or three weeks preparing	10:32:24
12	for this testimony.	10:32:28
13	Q Okay. Approximately how many times during	10:32:29
14	the past two to three weeks did you speak with him?	10:32:31
15	A Approximately three or four times.	10:32:34
16	Q For approximately how many hours total?	10:32:36
17	A For approximately -- probably not more	10:32:44
18	than three hours.	10:32:50
19	Q And what did Mr. Finney tell you about his	10:32:50
20	knowledge of Mrs. Clinton's e-mail usage as it	10:32:56
21	relates to FOIA requests?	10:32:59
22	A Can you specify a time frame?	10:33:03

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1	Q	Just Mr. Finney's general knowledge	10:33:05
2		between -- we'll start off between January 2009 and	10:33:08
3		February 2013.	10:33:12
4	A	Mr. Finney was not aware of e-mail usage	10:33:16
5		by the former Secretary.	10:33:19
6	Q	Did Mr. Finney ever receive an e-mail from	10:33:20
7		Mrs. Clinton during that time period?	10:33:23
8	A	No.	10:33:25
9	Q	Did Mrs. -- Mr. Finney ever send an e-mail	10:33:26
10		to Mrs. Clinton during that time period?	10:33:31
11	A	No.	10:33:33
12	Q	Was Mr. Finney ever cc'd on an e-mail	10:33:33
13		either from or to the -- Mrs. Clinton during that	10:33:36
14		time period?	10:33:41
15	A	No.	10:33:41
16	Q	During the time period 2013 through the	10:33:41
17		initial response in this request in February of	10:33:47
18		2014, what did Mr. Finney know about Mrs. Clinton's	10:33:51
19		use of e-mail as it related to FOIA?	10:33:54
20	A	He was not aware that there was e-mail	10:34:00
21		that would be responsive to FOIA requests.	10:34:02
22	Q	Okay. Did Mr. Finney -- besides asking	10:34:05

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1	S/ES-IRM if Mrs. Clinton was using a State.gov	10:34:13
2	e-mail account, did Mr. Finney ask anyone else	10:34:18
3	within the department?	10:34:21
4	A No.	10:34:25
5	Q Did Mr. Finney -- did Mr. Finney and the	10:34:25
6	person in IRM or just generally IRM after the	10:34:32
7	conversation, after he saw the photo in the media,	10:34:38
8	did he -- were there any other discussions with	10:34:42
9	someone in S/ES-IRM about Mrs. Clinton's non use of	10:34:45
10	a State.gov e-mail account?	10:34:50
11	MS. WOLVERTON: Objection.	10:34:52
12	Mischaracterizes the testimony.	10:34:53
13	Q You may answer the question.	10:34:55
14	A Can you clarify the question?	10:34:58
15	Q Sure. We talked about Mr. Finney having	10:34:59
16	communications with S/ES-IRM after he saw a photo.	10:35:03
17	Were there additional conversations after that at	10:35:11
18	another point, after that discussion?	10:35:14
19	A Can you be more specific? Conversations	10:35:16
20	about what?	10:35:18
21	Q About whether or not Mrs. Clinton had a	10:35:19
22	State.gov e-mail account.	10:35:21

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1	A	No.	10:35:25
2	Q	Sure. What did -- what did Mr. Finney	10:35:26
3		tell you about seeing the photo?	10:35:33
4		MS. WOLVERTON: Objection. Vague, and	10:35:36
5		extends beyond the scope of the notice 30(b)(6)	10:35:38
6		topic.	10:35:42
7		I'll instruct the witness not to answer.	10:35:42
8		MR. BEKESHA: I mean, this goes to how	10:35:45
9		the -- how the witness has knowledge about the	10:35:46
10		information we're asking. We're asking about	10:35:49
11		Mr. Finney's knowledge, the State Department's	10:35:51
12		knowledge of Mrs. Clinton's use of e-mail as it	10:35:53
13		relates to FOIA requests.	10:35:55
14		MS. WOLVERTON: You could tailor your	10:35:57
15		question accordingly.	10:36:01
16	Q	What did Mr. Finney tell you about the	10:36:02
17		photo and what he thought in light of FOIA requests	10:36:04
18		for Mrs. Clinton's e-mails?	10:36:06
19	A	He did not see a direct connection between	10:36:10
20		the photo and FOIA requests for Mrs. Clinton's	10:36:13
21		e-mails.	10:36:16
22	Q	Did Mr. Finney ever ask IRM what e-mail	10:36:17

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1	address Mrs. Clinton was using?	10:36:22
2	MS. WOLVERTON: Again, I'll ask that you	10:36:25
3	clarify which IRM you're referencing.	10:36:27
4	Q The S/ES-IRM.	10:36:29
5	A No. He asked if she had a State.gov	10:36:34
6	account.	10:36:38
7	Q Did Mr. Finney ever have conversations	10:36:39
8	with the State Department general IRM component or	10:36:42
9	bureau about Mrs. Clinton's -- whether or not	10:36:46
10	Mrs. Clinton was using a State.gov e-mail account?	10:36:49
11	A Not to my knowledge. But there would be	10:36:54
12	no reason to talk to the bureau of IRM.	10:36:55
13	Q Did Mr. Finney ever talk to the bureau of	10:37:00
14	IRM about Mrs. Clinton's use of e-mail?	10:37:03
15	A Not to my knowledge.	10:37:09
16	Q Did anybody that worked for Mr. Finney	10:37:09
17	between January 2009 and, let's say, February 2013	10:37:16
18	ask Mr. Finney about Mrs. Clinton's -- whether or	10:37:23
19	not Mrs. Clinton had a State Department e-mail	10:37:28
20	account?	10:37:30
21	A I don't have that information.	10:37:34
22	Q Who would have that information?	10:37:35

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1 A Not all of the employees who worked for 10:37:42
2 Mr. Finney at that time are still employed by the 10:37:44
3 State Department. 10:37:46

4 Q Would Mr. Finney potentially have that 10:37:49
5 information? 10:37:51

6 A Possibly. Can you be more -- can you 10:37:54
7 specify your question a little more? 10:37:57

8 Q Sure. Yeah. I'm just wondering, would 10:37:58
9 Mr. Finney know whether or not he had conversations 10:38:00
10 with individuals that reported to him about 10:38:03
11 Mrs. Clinton's use or nonuse of a State.gov e-mail 10:38:06
12 account. 10:38:10

13 A I -- I really have no additional 10:38:10
14 information on that. 10:38:16

15 Q Okay. In response to this specific FOIA 10:38:16
16 request, between May 21st, 2013, and February 12th, 10:38:20
17 2014, was Ms. Abedin's e-mail searched for 10:38:27
18 potentially responsive records? 10:38:33

19 A No. 10:38:35

20 Q Why not? 10:38:35

21 A Mr. Finney made the determination that the 10:38:39
22 bureau -- within the Executive Secretariat, the 10:38:43

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1 Executive Director's office, the Human Resources 10:38:47
2 office, was the place likely to contain responsive 10:38:50
3 documents. 10:38:54

4 Q So is it my understanding that no -- no 10:38:54
5 individual employee's files were searched for 10:39:00
6 records responsive to this FOIA request prior to 10:39:06
7 February 12th, 2014? 10:39:08

8 MS. WOLVERTON: Objection. Lack of 10:39:10
9 foundation, and vague. 10:39:12

10 Q You may answer the question. 10:39:13

11 A Can -- I'm not sure I understand the 10:39:16
12 question. 10:39:18

13 Q Sure. You mentioned earlier that 10:39:18
14 Mr. Wasser searched STARS, STEPS, and CARS for 10:39:21
15 records responsive to this FOIA request. 10:39:26

16 Were any additional systems of records 10:39:29
17 searched between the time of the request and 10:39:32
18 February of 2014 for potentially responsive records? 10:39:34

19 A Yes. 10:39:39

20 Q What else? Where else did he search? 10:39:39

21 A You mean within the Executive Secretariat? 10:39:43

22 Q Yes. 10:39:45

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1	A	The Correspondence and Records unit tasked	10:39:46
2		the Executive Director's office, the Human Resources	10:39:51
3		officer, to search for responsive documents.	10:39:55
4	Q	Okay. And when did that tasking take	10:39:59
5		place?	10:40:02
6	A	Late November 2013.	10:40:02
7	Q	And within the Office of the Executive	10:40:05
8		Director, what happened next after it was tasked?	10:40:08
9		MS. WOLVERTON: Objection. Extends beyond	10:40:10
10		the scope of the notice 30(b)(6) deposition.	10:40:12
11		I'll instruct the witness not to answer.	10:40:16
12		MR. BEKESHA: I mean, this goes to the	10:40:19
13		heart of the processing of the FOIA request with	10:40:20
14		respect to Mrs. Clinton's -- Mrs. Clinton and	10:40:22
15		Ms. Abedin's e-mails.	10:40:25
16		MS. WOLVERTON: There's no foundation.	10:40:26
17		You could ask a question about whether there were	10:40:28
18		e-mails there.	10:40:31
19	Q	What records did the Executive Director's	10:40:32
20		office -- what record systems were -- what records	10:40:36
21		were searched during that time period?	10:40:39
22	A	The human resource -- Human Resources	10:40:41

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1 officer within the Executive Director's office 10:40:44
2 maintained hard-copy files of personnel-related 10:40:47
3 matters and searched those files. 10:40:51

4 Q And what about the Office of the Executive 10:40:54
5 Director? Was that a different -- is that just one 10:40:57
6 office? Maybe I misunderstood your answer before. 10:40:59

7 A Human Resources is a subcomponent of the 10:41:02
8 Office of the Executive Director. 10:41:06

9 Q Okay. So the only tasking was to the HR 10:41:06
10 component of the Executive Director. 10:41:12

11 Is that correct? 10:41:14

12 A The tasking was to the Executive Director 10:41:15
13 as the overall director of that office, who then 10:41:18
14 chose which component of that office would be the 10:41:23
15 place -- would be reasonably likely to contain 10:41:27
16 responsive records, in this case the Human Resources 10:41:30
17 component. 10:41:34

18 Q Okay. And who made that determination 10:41:34
19 within the -- within the Office of the Executive 10:41:38
20 Director, who made the determination to task only 10:41:41
21 the HR component? 10:41:44

22 MS. WOLVERTON: Objection. Extends beyond 10:41:46

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1	the scope of the notice 30(b)(6) deposition topic.	10:41:48
2	I'll instruct the witness not to answer.	10:41:52
3	Q Would the Executive Director's office had	10:41:54
4	e-mail -- have e-mail records of Ms. Abedin and	10:41:57
5	Mrs. Clinton in their possession?	10:42:00
6	A Can you clarify the question?	10:42:09
7	Q Sure. It was tasked to the Executive	10:42:10
8	Director's office. And I'm wondering -- I'm trying	10:42:13
9	to get at, were e-mail records of Mrs. Clinton and	10:42:18
10	Ms. Abedin potentially within the record systems of	10:42:20
11	the Executive Director?	10:42:24
12	A The way the State Department stores	10:42:28
13	e-mails is based on the custodian. So if employees	10:42:31
14	of the -- of that office, that Executive Director's	10:42:37
15	office, had exchanged e-mails with Secretary Clinton	10:42:40
16	or Ms. Abedin, it's possible that those e-mails	10:42:46
17	could have resided within their electronic archives,	10:42:50
18	the employees within that office.	10:42:56
19	Q Okay. Were any of those searches	10:42:57
20	conducted during that time period?	10:43:00
21	A During which time period?	10:43:03
22	Q Prior to -- from the time of the FOIA	10:43:04

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1	request to February of 2014.	10:43:07
2	A No.	10:43:09
3	Q Okay. Why not?	10:43:09
4	A The Human Resources officer made the	10:43:13
5	determination that the responsive records would be	10:43:15
6	located in the hard-copy personnel files.	10:43:19
7	Q Okay. So after that happened and after	10:43:21
8	the searches were conducted, what did Mr. Wasser do	10:43:27
9	next?	10:43:31
10	A He prepared a response for Mr. Finney's	10:43:32
11	signature to return the responsive documents to the	10:43:36
12	IPS case analyst.	10:43:43
13	Q Okay.	10:43:44
14	A And filled out the DS-1748.	10:43:46
15	Q And what happened next?	10:43:48
16	A The Executive Secretariat returned the	10:43:52
17	response to the IPS case analyst.	10:43:55
18	Q Okay. And then what happened?	10:43:58
19	A I don't understand your question.	10:44:04
20	Q What did the case analyst do once they	10:44:05
21	received the DS-1748 from the Executive Secretariat?	10:44:07
22	A The IPS case analyst is typically	10:44:12

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1 gathering the responses from all the various offices 10:44:16
2 that have been tasked. In this case that would 10:44:20
3 include the Office of the Legal Advisor, the 10:44:23
4 Executive Secretariat, and the Bureau of Human 10:44:27
5 Resources. 10:44:30

6 Q Okay. Did -- does the case analyst -- 10:44:30
7 did -- in this instance did the case analyst review 10:44:40
8 the different databases that were searched? 10:44:43

9 A Excuse me. 10:44:47

10 I'm sorry, can you be more specific about 10:44:52
11 which databases? 10:44:54

12 Q Sure. The databases that the Executive 10:44:55
13 Secretariat searched. Does the case analyst, or did 10:44:57
14 in this instance, did the case analyst look to see 10:45:00
15 what databases were searched? 10:45:03

16 A The case analyst reviews the responses 10:45:05
17 from the bureau, in this case the Executive 10:45:10
18 Secretariat, to ensure that the -- that the 10:45:14
19 databases are clearly listed on the 1748 tasker. 10:45:17

20 Q Does the case analyst generally or 10:45:21
21 specific in this case -- or let's start generally, 10:45:23
22 does the case analyst review the databases and the 10:45:27

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1 searches that were conducted to determine whether or 10:45:31
2 not the searches were sufficient? 10:45:33

3 MS. WOLVERTON: Objection. Vague. 10:45:38

4 A Can you be more specific? 10:45:39

5 Q Sure. When the case analyst reviews the 10:45:40
6 information that's returned to the case analyst, 10:45:42
7 does the case analyst do any substantive review of 10:45:46
8 what is provided to the case analyst? 10:45:48

9 A The case analyst reviews the documents 10:45:52
10 that are provided to -- at that point they are 10:45:55
11 considered potentially responsive documents. The 10:45:58
12 case analyst reviews those documents to determine 10:46:01
13 whether or not they are actually responsive to the 10:46:05
14 request. 10:46:07

15 Q So the case analyst does not review the 10:46:07
16 searches, specifically review the methods and means 10:46:10
17 of the searches that were conducted? 10:46:15

18 A The case analyst generally reviews the 10:46:17
19 1748 tasker to ensure it's complete and -- and that 10:46:20
20 the searches conducted are clearly listed. 10:46:23

21 Q Okay. So in this instance, after the case 10:46:25
22 analyst received the tasker back from the various 10:46:28

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1	components, what happened next?	10:46:32
2	A Then, working with the Office of the Legal	10:46:35
3	Advisor, the -- the litigation case analyst	10:46:38
4	compiles -- compiled the results.	10:46:44
5	Q Okay. What happened after that?	10:46:44
6	A Then the -- the litigation case analyst	10:46:47
7	prepared the response letter to the requester, and	10:46:52
8	the documents were prepared for release.	10:46:56
9	Q Okay. And then what happened after that?	10:46:58
10	A Then the letter was drafted to the	10:47:02
11	requester.	10:47:06
12	Q And who drafted -- who drafts the letter?	10:47:07
13	Or in this instance who drafted the letter?	10:47:10
14	A The litigation case analyst drafts the	10:47:13
15	letter. I'm not sure which of the two litigation	10:47:15
16	case analysts drafted the letter.	10:47:19
17	Q Okay. And then the letter was sent on	10:47:21
18	February 12th, 2014?	10:47:23
19	A Correct.	10:47:30
20	Q What happened after that?	10:47:30
21	MS. WOLVERTON: Objection. Vague.	10:47:34
22	Q What happens -- is a FOIA -- once the	10:47:36

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1	letter is sent -- once the letter was sent, what	10:47:40
2	happens within IPS -- or what happened in IPS	10:47:43
3	related to this FOIA request?	10:47:46
4	A Then the case -- well, the case is	10:47:51
5	normally closed when the response is provided to the	10:47:53
6	requester.	10:47:56
7	Q Was the case closed in this instance?	10:47:56
8	A No. Because it was a litigation case.	10:47:58
9	Q So what happened? Does it -- I guess	10:48:00
10	my -- does it stay open, does the file stay active,	10:48:05
11	what happens?	10:48:08
12	A It stays open until the litigation is	10:48:08
13	resolved.	10:48:10
14	Q Okay. When was the -- was the litigation	10:48:10
15	resolved shortly thereafter?	10:48:14
16	A I believe it was resolved in March of	10:48:16
17	2014.	10:48:18
18	Q Okay. And what happened at that point --	10:48:18
19	MS. WOLVERTON: Objection.	10:48:21
20	Q -- with the file?	10:48:22
21	MS. WOLVERTON: Objection. Vague.	10:48:23
22	Q You can answer the question.	10:48:24

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1	A	The -- then the case is closed.	10:48:28
2	Q	Okay. And what does that mean? What	10:48:30
3		administrative procedure takes place?	10:48:33
4	A	It just means that in the software that	10:48:35
5		IPS uses to manage its caseload, the case is closed.	10:48:36
6		Which is important for statistical tracking	10:48:40
7		purposes.	10:48:43
8	Q	Okay. And is the case file kept for a	10:48:43
9		certain period of time after a case is closed?	10:48:47
10	A	Yes.	10:48:57
11	Q	Do you know for how long?	10:48:57
12	A	I'm sorry. I don't have that information.	10:48:59
13	Q	Did you review the case file related to	10:49:00
14		this FOIA request in preparation for today?	10:49:02
15	A	Can you be more specific?	10:49:05
16	Q	Sure. The case -- you said earlier on in	10:49:06
17		your testimony that a case file was created for this	10:49:11
18		FOIA request when it was received in May 2013.	10:49:14
19		Does that case file still exist today?	10:49:19
20	A	The -- the case is -- primarily resides in	10:49:23
21		the Freedoms software that IPS uses.	10:49:27
22	Q	Is the same -- what is included in that	10:49:30

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1 system, in the Freedoms system? 10:49:34

2 MS. WOLVERTON: Objection. Just I'm going 10:49:35

3 to note that at this point the questions are really 10:49:39

4 straying far beyond the notice 30(b)(6) deposition 10:49:43

5 topic. And instruct the witness not to answer. 10:49:46

6 Q What did you review -- what materials did 10:49:51

7 you review in preparation for today related to 10:49:53

8 the -- specifically to the processing of the FOIA 10:49:57

9 request from the time it was submitted until the 10:49:59

10 case was closed? 10:50:03

11 A I'll direct you to Exhibit 2. Four -- Tab 10:50:07

12 4A. 10:50:27

13 Q Did you review anything -- any other 10:50:52

14 documents related to the processing of the FOIA 10:50:55

15 request, besides Tab -- besides what is -- the 10:50:56

16 document in Tab 4A? 10:51:00

17 A Yes. 10:51:03

18 Q What else did you review about the 10:51:03

19 processing of the FOIA request from the time the 10:51:04

20 FOIA request was submitted until the time the case 10:51:07

21 was closed sometime in, it sounded like early 2014? 10:51:09

22 A I reviewed the -- the Freedoms software 10:51:15

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1	case for this and various e-mail traffic between	10:51:18
2	individuals working on this FOIA request.	10:51:25
3	Q Okay.	10:51:27
4	All right. We're going to move ahead to	10:51:36
5	2015.	10:51:39
6	Are you aware that this FOIA litigation	10:51:42
7	was reopened in June of 2015?	10:51:44
8	A Yes.	10:51:48
9	Q When the case was reopened, what happened	10:51:48
10	at IPS related to this FOIA request?	10:51:54
11	A When the case was reopened, it was	10:51:58
12	assigned to a litigation analyst.	10:52:00
13	Q And who was that litigation analyst?	10:52:02
14	A Julia Navarro.	10:52:05
15	Q Is that person still at the Department of	10:52:07
16	State?	10:52:09
17	A Yes.	10:52:09
18	Q Okay. And what did Ms. Navarro -- sorry,	10:52:09
19	Mr. or Ms. Navarro?	10:52:14
20	A Ms. Navarro.	10:52:16
21	Q What did Ms. Navarro do when it was	10:52:17
22	assigned to her?	10:52:22

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1	A	She reopened the case and awaited further	10:52:23
2		instruction from the Office of the Legal Advisor.	10:52:26
3	Q	Okay. After she received instruction from	10:52:28
4		the Office of the Legal Advisor, what did she do?	10:52:32
5	A	She tasked additional searches per the	10:52:35
6		instructions from the Office of the Legal Advisor.	10:52:39
7	Q	Okay. And what -- when did that happen?	10:52:41
8		When did she task additional searches?	10:52:44
9	A	In late July 2015.	10:52:47
10	Q	Okay. And what were the searches that she	10:52:48
11		tasked?	10:52:51
12	A	The searches that she tasked were based	10:52:55
13		upon the discussions between the plaintiff and	10:52:58
14		the -- and the department, the agreement that was	10:53:00
15		reached on search terms and dates.	10:53:05
16	Q	Okay. Who did she task?	10:53:10
17	A	Let's go to Tab 3B.	10:53:20
18	Q	What -- who did she task?	10:54:01
19	A	As indicated on Page 3 of the declaration,	10:54:03
20		the -- the bureaus and offices that were tasked were	10:54:09
21		the Bureau of Human Resources, the Office of the	10:54:14
22		Executive Secretariat, the Office of the Legal	10:54:14

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1 Advisor, the Office of the Under Secretary for 10:54:21

2 Management, and the Central Foreign Policy records. 10:54:22

3 Q And were those the same offices that were 10:54:24

4 tasked initially, the first time around, when the 10:54:26

5 FOIA request was received? 10:54:30

6 A The addition was the Office of the Under 10:54:32

7 Secretary For Management. 10:54:35

8 Q And why was that office added? 10:54:35

9 A It was determined at that time that that 10:54:41

10 office might have responsive records. 10:54:43

11 Q Why was it -- why was that determination 10:54:45

12 not made during the initial processing of this FOIA 10:54:48

13 request? 10:54:52

14 A The initial -- the -- the offices that 10:54:55

15 were initially tasked were tasked because a 10:54:57

16 determination was made that they were reasonably 10:54:59

17 likely to contain records. 10:55:01

18 Q And who made the determination that the 10:55:03

19 Office of the Under Secretary for Management may 10:55:05

20 have potentially responsive records? 10:55:09

21 A With any case in litigation, the 10:55:12

22 discussion is between the Office of the Legal 10:55:14

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1	Advisor and the IPS office.	10:55:17
2	Q And do you know who made, specifically	10:55:20
3	made this determination?	10:55:23
4	A No.	10:55:24
5	Q Do you know who would know who made that	10:55:25
6	determination?	10:55:27
7	A The IPS case analyst.	10:55:29
8	Q And who was that?	10:55:31
9	A Julia Navarro.	10:55:33
10	Q Okay. So what did -- so the next step was	10:55:35
11	Ms. Navarro tasked out to the various departments.	10:55:42
12	One of those departments was the office -- or one of	10:55:49
13	those components was the Office of the Executive	10:55:51
14	Secretariat. Is that correct?	10:55:54
15	A Correct.	10:55:55
16	Q Who received that tasking within the	10:55:56
17	Office of the Executive Secretariat?	10:55:59
18	A Clarence Finney.	10:56:01
19	Q When did Mr. Finney receive that tasking?	10:56:01
20	A In late July 2015.	10:56:04
21	Q And what did Mr. Finney do next?	10:56:06
22	A He tasked searches.	10:56:09

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1	Q	Who did he task?	10:56:12
2	A	He tasked the program assistant in the	10:56:15
3		Office of Correspondence and Records.	10:56:18
4	Q	And who was that at the time?	10:56:19
5	A	Kevin Greer.	10:56:21
6	Q	Okay. And what did -- did Mr. Finney	10:56:22
7		instruct Mr. Greer what searches -- where to search,	10:56:25
8		what searches needed to be done?	10:56:30
9	A	Yes.	10:56:32
10	Q	And what did he tell him?	10:56:32
11	A	He instructed him to search the -- the	10:56:37
12		Huma Abedin State.gov e-mail account.	10:56:42
13	Q	What else did he ask him to search?	10:56:44
14	A	Let's refer to the same, Number 4, Tab D.	10:56:52
15		MS. WOLVERTON: I'm sorry. Do you mean	10:57:05
16		Tab 3D?	10:57:07
17		THE WITNESS: Yes, I'm sorry. Yes. 3D.	10:57:10
18	Q	Where did Mr. Finney task the case analyst	10:57:29
19		to search?	10:57:32
20	A	Refer to the top of Page 8 of the	10:57:34
21		declaration. The -- the program assistant and the	10:57:38
22		S/ES management analyst both participated in these	10:57:45

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1	searches. For the State.gov e-mail records of	10:57:50
2	Ms. Mills, Ms. Abedin, the former Human Resources	10:57:54
3	officer Cynthia Motley, and a former senior advisor	10:57:58
4	in the Office of the White House Liaison, Heather	10:58:02
5	Samuelson.	10:58:05
6	Q How -- why were those individuals' e-mails	10:58:06
7	determined to maybe contain potentially responsive	10:58:11
8	records?	10:58:14
9	A Based on the subject matter of the -- of	10:58:19
10	the request.	10:58:21
11	Q Were those -- did Mr. Finney task someone	10:58:22
12	to search those record systems during the initial	10:58:26
13	processing of the FOIA request?	10:58:29
14	A No.	10:58:31
15	Q Why not?	10:58:31
16	A He made a determination in the initial	10:58:34
17	processing that the Human Resources office was the	10:58:36
18	location of likely responsive records.	10:58:41
19	Q And he made -- and he was the one that	10:58:44
20	made the determination during the supplemental	10:58:46
21	search to search these e-mail account -- or these	10:58:49
22	record systems?	10:58:54

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1	A	During the supplemental search, the	10:58:55
2		decision of potentially -- locations to search for	10:58:58
3		potentially responsive records was made in	10:59:01
4		consultation with the Office of the Legal Advisor	10:59:04
5		and the IPS.	10:59:07
6	Q	Was Mr. Finney ordered to search these	10:59:09
7		record systems during the supplemental search?	10:59:14
8		MS. WOLVERTON: Objection. Vague.	10:59:18
9	A	The -- the search tasker and e-mail	10:59:22
10		instruction that came from IPS indicated, based on	10:59:27
11		the discussions and agreement between the two	10:59:30
12		parties, what would be searched.	10:59:34
13	Q	So Mr. Finney did not make the	10:59:37
14		determination where to search.	10:59:40
15	A	Correct.	10:59:43
16	Q	Who -- who -- I guess the question is, who	10:59:43
17		made that determination, then?	10:59:48
18		MS. WOLVERTON: Objection. Asked and	10:59:50
19		answered.	10:59:51
20	Q	A specific individual, not -- not the	10:59:54
21		title or the office they were in. Who was the	10:59:57
22		individual, the specific individual, that made the	10:59:59

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1	determination to search the e-mail -- search the	11:00:02
2	State.gov e-mail records of Ms. Mills, Ms. Abedin,	11:00:07
3	Ms. Motley, and Ms. Samuelson?	11:00:12
4	MS. WOLVERTON: Objection. Asked and	11:00:15
5	answered, and also calls for information covered by	11:00:18
6	the attorney-client privilege.	11:00:21
7	So I'll instruct the witness not to answer	11:00:24
8	on that basis.	11:00:26
9	Q Was Mr. Finney told by the IPS case	11:00:29
10	analyst where to conduct its searches, where he	11:00:39
11	should conduct -- you said that it was in	11:00:44
12	consultation with the Office of the Legal Advisor	11:00:45
13	and IPS, talking about IPS specifically, was -- did	11:00:49
14	IPS instruct Mr. Finney to search the State.gov	11:00:53
15	e-mail records of Ms. Mills, Ms. Abedin, Ms. Motley,	11:00:57
16	and Ms. Samuelson?	11:01:00
17	MS. WOLVERTON: Objection. Asked and	11:01:02
18	answered, and mischaracterizes former testimony.	11:01:04
19	Q You may answer the question.	11:01:09
20	A Yes.	11:01:10
21	Q Who? Who was that individual at IPS?	11:01:11
22	A Who -- who instructed --	11:01:17

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1	Q	Who instructed Mr. Finney to search the	11:01:18
2		State.gov e-mail records of Ms. Mills, Ms. Abedin,	11:01:21
3		Ms. Motley, and Ms. Samuelson?	11:01:24
4	A	I believe it was Ms. Julia Navarro or his	11:01:28
5		branch chief, Susan Weetman.	11:01:36
6	Q	But you're not sure which one of the two	11:01:38
7		of them gave those instructions to Mr. Finney?	11:01:40
8	A	They were both working on this case at	11:01:42
9		this point.	11:01:45
10	Q	Okay. Why did those individuals not	11:01:45
11		instruct Mr. Finney to search those -- search the	11:01:47
12		State.gov e-mail records of Ms. Mills, Ms. Abedin,	11:01:52
13		Ms. Motley, and Ms. Samuelson during the initial	11:01:54
14		processing of the FOIA request?	11:01:58
15	A	The initial processing of the FOIA request	11:02:05
16		was less detailed instruction.	11:02:07
17	Q	Less detailed instruction from whom?	11:02:10
18	A	From the IPS analyst, to the Office of the	11:02:13
19		Executive Secretariat.	11:02:18
20	Q	Why was it less detailed instructions?	11:02:18
21	A	The office -- the 1748 tasker contains	11:02:24
22		general instructions for offices. When cases move	11:02:28

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1 into litigation, sometimes they're subject to very 11:02:32
2 specific instructions based on the status of 11:02:35
3 litigation. 11:02:37

4 Q In -- in this instance, based on this, 11:02:41
5 because the initial request began processing prior 11:02:42
6 to litigation, such instructions did not take place? 11:02:46

7 A No, that's not accurate. 11:02:53

8 Q Okay. Let's walk back then to the initial 11:02:54
9 processing of the FOIA request. 11:02:58

10 Why were detailed instructions not 11:03:01
11 provided to Mr. Finney as to where to search within 11:03:04
12 the Office of the Executive Secretariat? 11:03:07

13 MS. WOLVERTON: Objection. Vague. 11:03:10

14 Q You may answer the question. 11:03:13

15 A In general, IPS, when IPS tasks searches 11:03:15
16 to various components within the State Department, 11:03:19
17 State Department practice is that the bureau or 11:03:23
18 office that is tasked, those are the subject-matter 11:03:27
19 experts and are best placed to determine where 11:03:31
20 responsive records are likely to be located. 11:03:34

21 Q Okay. Did the FOIA requests change 11:03:37
22 between the initial processing of the request and 11:03:42

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1 the supplemental search? 11:03:44

2 MS. WOLVERTON: Objection. The question 11:03:45
3 assumes facts not in evidence. 11:03:47

4 Q You may answer the question. 11:03:50

5 A After the -- when the second -- the 11:03:54
6 supplemental searches were tasked, the instructions 11:03:56
7 to the searching offices had become more specific 11:04:01
8 through the result of discussions between the two 11:04:05
9 parties and the agreement that was reached between 11:04:07
10 the two parties. 11:04:09

11 Q So what happened after Mr. Finney was 11:04:12
12 tasked to search -- to have a supplemental search of 11:04:29
13 records within the Office of the Executive 11:04:33
14 Secretariat? 11:04:37

15 A Those searches were conducted. 11:04:37

16 Q And how were those searches conducted? 11:04:38

17 A Those searches were conducted using 11:04:44
18 Microsoft Outlook. 11:04:48

19 Q Could you be more specific? Was it a 11:04:51
20 keyword search? 11:04:56

21 Was it a keyword search? 11:04:59

22 A Yes. 11:05:01

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1	Q	Did -- did Ms. Mills have -- was a	11:05:01
2		search -- Outlook search done on Ms. Mills's PST	11:05:05
3		file?	11:05:09
4	A	Yes.	11:05:09
5	Q	Was a separate search conducted of	11:05:09
6		Ms. Abedin's PST file?	11:05:11
7	A	Yes.	11:05:13
8	Q	Was a separate search conducted on	11:05:14
9		Ms. Motley's PST file?	11:05:18
10	A	Yes.	11:05:23
11	Q	And the same for Ms. Samuelson?	11:05:23
12	A	Yes.	11:05:24
13	Q	Does the Office of Correspondence and	11:05:24
14		Records have a way to search all of those e-mail	11:05:29
15		accounts at one time?	11:05:32
16	A	Not consistently.	11:05:37
17	Q	What do you mean by that?	11:05:39
18	A	If all -- searching PSTs involves indexing	11:05:41
19		them and loading them on a -- what we call a virtual	11:05:47
20		machine. And if they were all loaded at the same	11:05:50
21		time and prepared to be searched at the same time,	11:05:53
22		they could be searched at the same time.	11:05:55

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1	Q	Is that normally how the records are	11:05:58
2		created -- the PST files are created?	11:06:01
3	A	That is not how PST files are created.	11:06:04
4	Q	Okay. How is a PST file created?	11:06:07
5	A	I don't have specific information on that.	11:06:11
6	Q	Okay. Were any other PST files searched	11:06:14
7		at that time?	11:06:19
8	A	Can you be more specific?	11:06:21
9	Q	Within the Office of the Secretary, were	11:06:22
10		any other PST files searched at that time?	11:06:24
11	A	Within the search that was conducted?	11:06:29
12	Q	Yes, within the search that -- the	11:06:31
13		supplemental search that was conducted in response	11:06:33
14		to this FOIA request.	11:06:34
15	A	Not that I'm aware of.	11:06:47
16	Q	Why not?	11:06:47
17	A	Because those were determined to be the --	11:06:48
18		the PST files that would be likely to contain	11:06:52
19		responsive records.	11:06:55
20	Q	Okay. Mrs. Clinton has stated and it's	11:06:56
21		also been testified to in this case that it was her	11:07:01
22		e-mail practice to e-mail government employees on	11:07:03

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1 their dot gov e-mail accounts. She said and the 11:07:06
2 testimony said the reason for this practice was so 11:07:10
3 work e-mails would be immediately captured and 11:07:12
4 preserved in government recordkeeping systems. 11:07:14

5 Was the State Department aware at any time 11:07:18
6 between January 2009 and February -- I guess we're 11:07:21
7 in July of 2015, that that was Mrs. Clinton's e-mail 11:07:30
8 practice? 11:07:33

9 MS. WOLVERTON: Objection. Assumes facts 11:07:34
10 not in evidence, and extends beyond the scope of the 11:07:37
11 notice 30(b)(6) deposition topic. 11:07:41

12 On that basis, I'll instruct the witness 11:07:45
13 not to answer. 11:07:47

14 MR. BEKESHA: I mean, this goes to whether 11:07:48
15 or not records were searched for Mrs. Clinton's 11:07:52
16 e-mail. That falls directly within the scope of the 11:07:54
17 30(b)(6). 11:07:57

18 MS. WOLVERTON: You can tailor your 11:07:58
19 question accordingly. 11:07:59

20 MR. BEKESHA: Sure. 11:07:59

21 Q At any point while processing this FOIA 11:07:59
22 request, did the State -- did the Office of 11:08:02

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1	Correspondence and Management, either Mr. Finney or	11:08:05
2	someone else, know that Mrs. Clinton's practice was	11:08:08
3	to e-mail government employees on their dot gov or	11:08:11
4	we can specify, was it her practice to e-mail State	11:08:15
5	Department employees on their State.gov e-mail	11:08:19
6	accounts so that they were captured and preserved in	11:08:22
7	government recordkeeping systems?	11:08:24
8	MS. WOLVERTON: Objection. Assumes facts	11:08:26
9	not in evidence, and compound.	11:08:27
10	Q You may answer the question.	11:08:29
11	A I'm not sure I understand the question.	11:08:34
12	Q Sure. While Mr. Finney -- while the	11:08:35
13	office of correspondence and management was	11:08:37
14	responding to FOIA requests, did they know, did	11:08:39
15	someone within that office know that Mrs. Clinton's	11:08:44
16	practice to preserve government e-mails was to do so	11:08:46
17	by -- by e-mailing State Department employees on	11:08:51
18	their State.gov e-mail account?	11:08:54
19	MS. WOLVERTON: Objection. Assumes facts	11:08:56
20	not in evidence.	11:08:58
21	A During what time frame?	11:09:00
22	Q Between January 2009 and February -- we'll	11:09:01

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1	change it to February 2014.	11:09:08
2	A No.	11:09:11
3	MS. WOLVERTON: Same objection.	11:09:11
4	A No.	11:09:12
5	Q Did Mr. Finney or anyone else talk to --	11:09:13
6	did Mr. Finney ever inquire about how	11:09:20
7	Mrs. Clinton -- strike that.	11:09:26
8	Does the State Department now know that	11:09:29
9	that was Mrs. Clinton's practice? And by that I	11:09:30
10	mean to e-mail State Department employees on a	11:09:34
11	State.gov e-mail account.	11:09:37
12	MS. WOLVERTON: Objection. Assumes facts	11:09:38
13	not in evidence.	11:09:39
14	Q You can answer the question.	11:09:41
15	A I'm not sure I understand the question.	11:09:43
16	Q Okay. Mrs. Clinton has said, and	11:09:45
17	testimony in this case has been provided, that	11:09:49
18	Mrs. Clinton's recordkeeping process was to e-mail	11:09:50
19	government employees on their dot gov e-mail	11:09:54
20	account. Is the State Department now aware that	11:09:57
21	that was Mrs. Clinton's practice?	11:10:01
22	MS. WOLVERTON: Objection. Assumes facts	11:10:03

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1 not in evidence. 11:10:04

2 A The State Department is aware that 11:10:06

3 Mrs. Clinton has made those statements. 11:10:09

4 Q Okay. When did the State Department 11:10:11

5 become aware of those, that Mrs. Clinton has made 11:10:14

6 such statements? 11:10:18

7 MS. WOLVERTON: Objection. Goes beyond 11:10:21

8 the scope of the notice 30(b)(6) deposition topic. 11:10:22

9 On that ground, I'll instruct the witness 11:10:27

10 not to answer. 11:10:29

11 Q Now that the State Department knows that 11:10:29

12 that was what Mrs. Clinton -- does the State 11:10:31

13 Department believe that was an adequate process to 11:10:34

14 capture e-mails of conducting official government 11:10:37

15 business? 11:10:43

16 MS. WOLVERTON: Objection. Extends beyond 11:10:43

17 the scope of the notice 30(b)(6) deposition topic. 11:10:46

18 I'll instruct the witness not to answer on 11:10:48

19 that ground. 11:10:50

20 Q Now that the State Department is aware 11:10:50

21 that Mrs. Clinton has said that this was her 11:10:52

22 practice, does the State Department believe that 11:10:54

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1	their searches in response to this FOIA request,	11:10:58
2	either the initial search, during the initial time	11:11:00
3	period, were sufficient?	11:11:03
4	MS. WOLVERTON: Objection. Calls for a	11:11:07
5	legal conclusion.	11:11:09
6	Q You may answer the question.	11:11:10
7	A I'm not a lawyer, so I won't make a legal	11:11:12
8	conclusion.	11:11:15
9	Q In -- in your personal opinion.	11:11:17
10	MS. WOLVERTON: Objection. Extends beyond	11:11:20
11	the scope of the notice 30(b)(6) deposition topic.	11:11:21
12	I'll instruct the witness not to answer on	11:11:24
13	that ground.	11:11:26
14	Q When you spoke with Mr. Finney in	11:11:28
15	preparation for today, did you discuss the	11:11:29
16	processing of this FOIA request as it relates to	11:11:33
17	Mrs. Clinton's statement about how she managed her	11:11:36
18	e-mails?	11:11:39
19	A Not specifically.	11:11:42
20	Q Did you talk about it generally?	11:11:43
21	A Yes.	11:11:47
22	Q What did you discuss?	11:11:47

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1	A	The initial search and the subsequent	11:11:51
2		searches.	11:11:54
3	Q	Does Mr. Finney believe that additional	11:11:55
4		searches should have been conducted because of	11:11:59
5		Mrs. Clinton's statement that she -- her practice	11:12:03
6		was to preserve e-mails by e-mailing State	11:12:07
7		Department employees on a State.gov e-mail account?	11:12:10
8		MS. WOLVERTON: Objection. Calls for a	11:12:13
9		legal conclusion.	11:12:14
10	Q	You may answer the question.	11:12:16
11	A	No.	11:12:17
12	Q	What did Mr. Finney say when discussing	11:12:18
13		the searches that were conducted in response to this	11:12:23
14		FOIA request before the case -- the initial searches	11:12:27
15		that were conducted?	11:12:30
16		MS. WOLVERTON: Objection. Vague.	11:12:31
17	Q	What -- sorry.	11:12:35
18	A	Regarding e-mail searches, or regarding	11:12:38
19		the search that was conducted?	11:12:41
20	Q	Regarding the search that was conducted,	11:12:42
21		yes. Sorry.	11:12:47
22	A	That at that time it was his determination	11:12:50

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1	that the records that were searched were the places	11:12:53
2	that were reasonably likely to contain responsive	11:12:56
3	records.	11:12:59
4	Q And that did not include searches of any	11:12:59
5	e-mail systems. Is that correct?	11:13:02
6	A At that time, it did not.	11:13:04
7	Q Okay. What about during the supplemental	11:13:05
8	search; did you discuss with Mr. Finney those	11:13:09
9	searches that were conducted?	11:13:17
10	A Yes.	11:13:19
11	Q And what did he say about those searches,	11:13:19
12	about the supplemental searches?	11:13:21
13	MS. WOLVERTON: Objection. Vague.	11:13:23
14	Q You may answer the question.	11:13:25
15	A Can you clarify the question?	11:13:27
16	Q Sure. Does he believe -- did you guys	11:13:28
17	discuss -- did you discuss with Mr. Finney whether	11:13:34
18	the searches that were -- the supplemental searches	11:13:36
19	that were conducted were sufficient to find all	11:13:38
20	potentially responsive records?	11:13:42
21	A The supplemental searches we've been	11:13:47
22	talking about do not include the -- the former	11:13:49

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1 Secretary Clinton collection of e-mails, which was 11:13:53
2 also searched. 11:13:56

3 Q Thank you. Because Mrs. Clinton has 11:13:58
4 stated that her practice was to capture and preserve 11:14:00
5 government records by e-mailing other State 11:14:04
6 Department -- other employees on a government e-mail 11:14:07
7 address, including a State.gov e-mail account, does 11:14:10
8 Ms. -- did you and Mr. Finney discuss whether or not 11:14:14
9 the supplemental searches were sufficient? 11:14:16

10 MS. WOLVERTON: Objection. Assumes facts 11:14:19
11 not in evidence, asked and answered. 11:14:20

12 Q You may answer the question. 11:14:23

13 A I think you're linking two separate things 11:14:25
14 that are not linked. 11:14:27

15 Q What do you mean by that, if you could 11:14:30
16 elaborate? 11:14:32

17 A The -- the supplemental searches were 11:14:34
18 sufficient. They included a search of the former 11:14:36
19 Secretary Clinton e-mail collection. 11:14:42

20 The practice -- the way the State 11:14:46
21 Department stores e-mail records is by custodian, by 11:14:49
22 the employee who sent or received those e-mails. So 11:14:53

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1 in order to search, for example, for Secretary 11:14:58
2 Clinton's e-mails, if they were stored in other 11:15:03
3 custodians' electronic archives, it would not be 11:15:07
4 possible to do that except by searching individual 11:15:11
5 custodian by individual custodian, which would not 11:15:13
6 be reasonably possible. 11:15:17

7 Q Why -- why would that not be reasonably 11:15:20
8 possible? 11:15:23

9 A The department has 70,000 employees 11:15:23
10 worldwide. 11:15:27

11 Q But -- so does that mean that Mrs. -- the 11:15:31
12 statement that e-mails would be immediately captured 11:15:37
13 and preserved in government recordkeeping systems 11:15:40
14 was not in compliance with the State Department 11:15:44
15 policy and did not allow the State Department to 11:15:47
16 sufficiently search for records responsive to this 11:15:50
17 FOIA request? 11:15:53

18 MS. WOLVERTON: Objection. Calls for a 11:15:55
19 legal conclusion, and compound. And in that regard 11:15:56
20 extends beyond the notice 30(b)(6) deposition topic. 11:16:02

21 On that basis, I'll instruct the witness 11:16:06
22 not to answer that question. 11:16:08

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1	Q	Okay. We can come back to that.	11:16:09
2		Let's turn our attention from this	11:16:16
3		specific --	11:16:18
4	MS. BERMAN:	Do you want to take a break?	11:16:20
5	THE WITNESS:	Is this a good time to take	11:16:23
6		a break?	11:16:24
7	MR. BEKESHA:	Sure. I actually had a	11:16:24
8		couple more questions about the processing of this	11:16:26
9		specific FOIA request and then moving on. I don't	11:16:27
10		know if it makes sense to finish that first.	11:16:29
11	MS. WOLVERTON:	What do you think?	11:16:32
12	THE WITNESS:	Let's take a break now.	11:16:33
13	MR. BEKESHA:	Okay. Thank you.	11:16:34
14	VIDEO SPECIALIST:	This marks the end of	11:16:35
15		Tape Number 2 in the deposition of Karin Lang. We	11:16:39
16		are off the record at 11:16.	11:16:43
17		(A recess was taken.)	11:16:46
18	VIDEO SPECIALIST:	Here begins Tape Number	11:30:31
19		3 in the deposition of Karin Lang. We are back on	11:30:36
20		the record at 11:30.	11:30:40
21	MR. BEKESHA:	Thank you.	11:30:42
22	BY MR. BEKESHA:		11:30:42

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1	Q	I just have a few more very quick	11:30:43
2		questions about the processing of this FOIA request	11:30:45
3		specifically.	11:30:48
4		After the State Department filed its	11:30:50
5		motion for summary judgment in this case, the State	11:30:51
6		Department informed the court that it located	11:30:55
7		additional sources of documents that originated	11:30:56
8		within the Office of the Secretary that are	11:30:59
9		reasonably likely to contain records responsive to	11:31:02
10		the plaintiff's request.	11:31:05
11		Do you know what those additional sources	11:31:09
12		of documents are that were located?	11:31:10
13	A	Can you clarify the date of that filing?	11:31:12
14	Q	Sure. It would have been roughly -- this	11:31:15
15		filing was in I believe late January, early	11:31:18
16		February. The motion for summary judgment was filed	11:31:22
17		I believe in November of last year, of 2015. So	11:31:26
18		this would have been -- this statement would be	11:31:34
19		made late January, early February of 2016.	11:31:35
20	A	Yes, I believe so.	11:31:37
21	Q	And what are those additional sources?	11:31:38
22	A	There were certain files that were	11:31:41

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1	electronic files associated with former employees	11:31:45
2	that were in addition to e-mails that were found to	11:31:50
3	be located still in the S/ES-IRM office.	11:31:53
4	Q Okay. And what? What electronic files	11:31:57
5	are they, just generally?	11:32:02
6	A They're personal drives, which can contain	11:32:06
7	a variety of information.	11:32:08
8	Q Did they include PST files?	11:32:09
9	A No. The PST files were searched.	11:32:12
10	Q Okay.	11:32:14
11	Okay. Did it include e-mail -- electronic	11:32:17
12	versions of e-mails in that drive or in that new	11:32:20
13	source of information?	11:32:25
14	A It could contain a variety of file types.	11:32:26
15	Q Okay. Has that -- have those additional	11:32:29
16	sources been searched for records responsive to this	11:32:32
17	case?	11:32:36
18	A Yes, I believe so.	11:32:38
19	Q Okay. Have any records -- were any	11:32:39
20	records located?	11:32:41
21	A No.	11:32:42
22	Q Okay. To the State Department's	11:32:42

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1	knowledge, since Judicial Watch submitted its FOIA	11:32:47
2	request in May -- on May 21st, 2013, has any	11:32:49
3	potentially responsive e-mails been destroyed or	11:32:56
4	lost?	11:32:59
5	A Can you narrow that question?	11:33:04
6	Q Not really.	11:33:07
7	A Okay.	11:33:10
8	Q I wish I could, to help you out. But, you	11:33:11
9	know, since the FOIA request was submitted, were --	11:33:14
10	or, you know, I can be a little more -- since the	11:33:18
11	State Department received Judicial Watch's FOIA	11:33:20
12	request at issue in this case, is the State	11:33:23
13	Department aware of any potentially responsive	11:33:25
14	e-mails that have been destroyed or lost?	11:33:27
15	MS. WOLVERTON: Objection. The question	11:33:31
16	extends beyond the scope of the notice 30(b)(6)	11:33:33
17	deposition topic.	11:33:36
18	On that basis, I'll instruct the witness	11:33:38
19	not to answer.	11:33:39
20	MR. BEKESHA: Sure. I'll clarify.	11:33:40
21	Q To the State Department's knowledge, since	11:33:41
22	the State Department received the FOIA request at	11:33:43

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1	issue in this case, has any potential responsive	11:33:45
2	e-mails of Mrs. Clinton or Ms. Abedin been destroyed	11:33:49
3	or lost?	11:33:52
4	A It's not possible to answer that question	11:33:59
5	because on the date that the -- that the initial	11:34:04
6	FOIA request was received, there were e-mails from	11:34:08
7	former Secretary Clinton and Ms. Abedin that were	11:34:13
8	not in the possession of the State Department. The	11:34:16
9	State Department is not in a position to say whether	11:34:20
10	e-mails subsequent to that -- e-mails that existed	11:34:25
11	on that date were subsequently lost.	11:34:27
12	Q Okay. You mentioned earlier that a	11:34:32
13	litigation hold was created or prepared when this	11:34:36
14	case entered litigation.	11:34:40
15	Who was -- who was the litigation hold	11:34:42
16	sent to?	11:34:44
17	MS. WOLVERTON: Objection.	11:34:47
18	Mischaracterizes testimony.	11:34:48
19	Q You may answer the question.	11:34:50
20	A I did not state that a litigation hold was	11:34:53
21	placed on this case.	11:34:56
22	Q Was a litigation hold or some type of	11:34:57

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1	notice about the litigation created once this case	11:35:00
2	entered litigation?	11:35:06
3	A Can you be more specific?	11:35:09
4	Q Sure. When Judicial Watch filed its	11:35:10
5	lawsuit and it was served on the department, did the	11:35:15
6	department take any steps to ensure that any	11:35:17
7	responsive e-mails of Mrs. Clinton or Ms. Abedin	11:35:20
8	were not destroyed or lost?	11:35:25
9	A Again, as we stated earlier, at the time	11:35:33
10	that the initial -- the case initially went into	11:35:34
11	litigation, the department was not in possession or	11:35:39
12	control of former Secretary Clinton's e-mail	11:35:41
13	collection, so it could not have taken steps	11:35:44
14	regarding those documents.	11:35:48
15	Q Sure. Okay. What about, you mentioned	11:35:49
16	that in response to this FOIA request, the e-mail	11:35:54
17	files of Ms. Abedin, Ms. Mills, Ms. Motley, and	11:35:58
18	Ms. Samuelson were searched.	11:36:05
19	Were any steps taken, after the State	11:36:05
20	Department was served with the lawsuit in this case,	11:36:08
21	to ensure that those e-mails -- that e-mails that	11:36:09
22	may be potentially responsive in this FOIA request	11:36:13

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1	were not destroyed or lost?	11:36:16
2	MS. WOLVERTON: Objection. The question	11:36:17
3	extends beyond the scope of the notice 30(b)(6)	11:36:19
4	deposition topic.	11:36:22
5	I'll instruct the witness not to answer on	11:36:22
6	that basis.	11:36:24
7	MR. BEKESHA: Sure.	11:36:25
8	Q Ms. Abedin, in addition to using a	11:36:25
9	non-State.gov e-mail account, also used a State.gov	11:36:27
10	e-mail account for work-related purposes.	11:36:32
11	Is that correct?	11:36:34
12	A Yes.	11:36:34
13	Q What steps were taken when -- when	11:36:34
14	Judicial Watch filed its complaint and the State	11:36:38
15	Department was served and aware of the complaint,	11:36:41
16	were any steps taken to ensure that Ms. Abedin's	11:36:43
17	e-mails on the State.gov, her State Department	11:36:47
18	e-mail account, were not destroyed or lost?	11:36:51
19	A S/ES-IRM as a matter of practice preserved	11:36:54
20	the e-mails and the -- and the electronic material	11:36:58
21	from Ms. Abedin after she departed the State	11:37:02
22	Department.	11:37:05

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1	Q	Okay. How -- how does IRM, S/ES-IRM	11:37:05
2		become aware of the litigation? How did it become	11:37:14
3		aware that this case was in litigation?	11:37:15
4	A	I don't think S/ES-IRM was specifically	11:37:19
5		informed that this case was in litigation.	11:37:23
6	Q	Okay. So how would -- if they were not	11:37:25
7		specifically informed, how would they ensure that	11:37:27
8		no -- none of Ms. Abedin's e-mails were destroyed or	11:37:31
9		lost after litigation began?	11:37:34
10	A	S/ES-IRM did not destroy or -- did not	11:37:38
11		destroy any of its PSTs in its possession.	11:37:42
12	Q	Okay. How -- for how long does S/ES-IRM	11:37:46
13		archive, maintain, retain PST files for former	11:37:53
14		employees?	11:37:59
15		MS. WOLVERTON: Objection. The question	11:37:59
16		extends beyond the scope of the notice 30(b)(6)	11:38:00
17		deposition topic.	11:38:04
18		I'll instruct the witness not to answer on	11:38:04
19		that ground.	11:38:06
20	Q	With respect to Ms. Abedin's State	11:38:07
21		Department e-mail account, how long is S/ES-IRM	11:38:09
22		planning to maintain, preserve, retain her -- the	11:38:14

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1	PST file?	11:38:17
2	MS. WOLVERTON: Objection. Extends beyond	11:38:18
3	the scope of the notice 30(b)(6) deposition topic.	11:38:20
4	I'll instruct the witness not to answer on	11:38:24
5	that basis.	11:38:26
6	Q Okay. Let's switch gears from talking	11:38:26
7	about the specific FOIA request to issues generally	11:38:29
8	related to the processing of FOIA requests for	11:38:34
9	Mrs. Clinton -- for e-mails of Mrs. Clinton and	11:38:36
10	Ms. Abedin while Mrs. Clinton was Secretary of	11:38:38
11	State.	11:38:42
12	Do you -- are you aware of any FOIA	11:38:43
13	requests that were received by the State Department	11:38:45
14	for Mrs. Clinton and Ms. Abedin's e-mails during	11:38:48
15	this time period?	11:38:51
16	A Yes.	11:38:54
17	Q Do you know approximately how many FOIA	11:38:54
18	requests were received?	11:38:58
19	A Can you be more specific?	11:39:00
20	Q Sure. How many FOIA requests were	11:39:01
21	received, while Mrs. Clinton was Secretary of State,	11:39:03
22	that may have implicated Mrs. Clinton or	11:39:07

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1 Ms. Abedin's e-mails?

11:39:09

2 A I can't answer that definitively, because
3 that's not the way the State Department keeps data
4 on FOIA.

11:39:11

11:39:14

11:39:16

5 Q Okay. Do you know who may have the answer
6 to that question?

11:39:17

11:39:20

7 A The State Department doesn't keep data
8 that way.

11:39:22

11:39:24

9 Q Okay. Do you know of any specific FOIA
10 requests during the time period Mrs. Clinton was in
11 office that may have implicated Mrs. Clinton and
12 Ms. Abedin's e-mails?

11:39:24

11:39:27

11:39:30

11:39:33

13 MS. WOLVERTON: Objection. Beyond the
14 scope of the notice 30(b)(6) deposition topic.

11:39:35

11:39:36

15 I'll instruct the witness not to answer.

11:39:40

16 MR. BEKESHA: I mean, the topic is the
17 processing of FOIA requests for e-mails of

11:39:42

11:39:44

18 Mrs. Clinton and Ms. Abedin during Mrs. Clinton's
19 tenure as Secretary of State. This question goes

11:39:46

11:39:49

20 directly to the processing of FOIA requests for

11:39:52

21 e-mails of Mrs. Clinton and Ms. Abedin during

11:39:56

22 Mrs. Clinton's tenure as Secretary of State.

11:39:58

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1	MS. WOLVERTON: The notice topic, and as	11:40:02
2	you have described this line of questioning, is the	11:40:04
3	general processing of FOIA requests, but your	11:40:08
4	question was directed to specific FOIA requests.	11:40:11
5	MR. BEKESHA: Sure. I mean, the -- I	11:40:15
6	mean, the 30(b)(6) -- the order of the court says	11:40:18
7	regarding the processing of FOIA requests. And I'm	11:40:20
8	asking about the processing of FOIA requests.	11:40:23
9	MS. WOLVERTON: But you asked about	11:40:25
10	specific requests.	11:40:26
11	MR. BEKESHA: I asked if she recalled any	11:40:28
12	specific requests.	11:40:30
13	The State Department, as you probably	11:40:32
14	recall, agreed to this line of questioning. You	11:40:34
15	agreed to the scope of the 30(b)(6). This is	11:40:38
16	language that we jointly proposed to Judge Sullivan.	11:40:40
17	Judge Sullivan approved it. It talks about the	11:40:42
18	processing of FOIA requests that implicate	11:40:44
19	Mrs. Clinton and Ms. Abedin's e-mails, and we are	11:40:47
20	asking questions about that. That is not outside	11:40:50
21	the scope of the 30(b)(6).	11:40:52
22	MS. WOLVERTON: I believe that we did	11:40:56

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1 agree, though, that specifically excluded from the 11:40:57
2 requests are -- I'm sorry, the scope of discovery 11:41:01
3 generally, are questions about FOIA requests beyond 11:41:09
4 the request that is the subject of this action. 11:41:13

5 So while questions about processing in 11:41:16
6 general are fine, there's no basis for asking about 11:41:21
7 specific FOIA requests other than the one that's at 11:41:25
8 issue in this case. 11:41:28

9 MR. BEKESHA: And the question was not 11:41:29
10 asking for details about specific questions about 11:41:31
11 specific processing of the FOIA requests. I was 11:41:35
12 just asking the witness if she recalled any specific 11:41:38
13 FOIA requests that came in during that time period 11:41:40
14 for Mrs. Clinton -- that implicated Mrs. Clinton and 11:41:44
15 Ms. Abedin's e-mails. 11:41:47

16 MS. WOLVERTON: Okay. Could we go off the 11:41:52
17 record for a minute? 11:41:53

18 MR. BEKESHA: Sure. 11:41:54

19 VIDEO SPECIALIST: We are going off the 11:41:55
20 record. The time is 11:42. 11:41:56

21 (A recess was taken.) 11:42:01

22 VIDEO SPECIALIST: We are back on the 11:44:09

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1	record. The time is 11:44.	11:44:17
2	MR. BEKESHA: Thank you.	11:44:20
3	Could I ask the court reporter to read	11:44:21
4	back the last question.	11:44:22
5	(The reporter read the record as follows:	11:44:42
6	"QUESTION: Do you know of any specific	11:44:44
7	FOIA requests during the time period Mrs. Clinton	11:44:44
8	was in office that may have implicated Mrs. Clinton	11:44:44
9	and Ms. Abedin's e-mails?")	11:44:44
10	MS. WOLVERTON: Objection. Extends beyond	11:44:44
11	the scope of the notice 30(b)(6) deposition topic.	11:44:45
12	Q You may answer the question.	11:44:50
13	A Yes.	11:44:52
14	Q Okay. During -- while Mrs. Clinton was in	11:44:52
15	office, and FOIA requests were received by the	11:44:56
16	department for -- that may implicate Mrs. Clinton's	11:45:00
17	e-mails or Mrs. Abedin's e-mails, who was	11:45:05
18	responsible for that, for the processing of those	11:45:07
19	FOIA requests, within the Office of the Executive	11:45:09
20	Secretariat?	11:45:13
21	A The Office of Correspondence and Records,	11:45:13
22	which during Mrs. Clinton -- Secretary Clinton's	11:45:16

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1 tenure was an independent office within the 11:45:18
2 Executive Secretariat, was responsible for 11:45:22
3 processing all FOIA requests directed to the Office 11:45:25
4 of the Secretary or the deputy secretaries or the 11:45:30
5 under secretaries. 11:45:32

6 Q Okay. And if the FOIA requests came in 11:45:33
7 that implicated Ms. Abedin's e-mails, how would the 11:45:38
8 State Department go about searching Ms. Abedin's 11:45:41
9 e-mails for records responsive to the FOIA request? 11:45:44

10 A I'm sorry. Can you clarify a time frame? 11:45:50

11 Q Sure. I'm sorry. This whole line of 11:45:52
12 questioning is for the time period while 11:45:55
13 Mrs. Clinton was Secretary of State. So if I just 11:45:57
14 say "during this time period," or even if I don't, 11:46:00
15 I'm just referring to the four-year period between 11:46:03
16 January 2009 and February 2013. 11:46:06

17 A Thank you. 11:46:08

18 Q How -- the question was, how would the 11:46:11
19 FOIA requests come in that implicated Mrs. Abedin's 11:46:15
20 e-mails, how would the State Department go about 11:46:19
21 searching for records potentially responsive to the 11:46:21
22 FOIA request? 11:46:25

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1 A Such a request, if it was received by the 11:46:27
2 State Department, as we discussed earlier, would be 11:46:29
3 received by IPS and tasked to the Executive 11:46:32
4 Secretariat as appropriate, to the Office of 11:46:36
5 Correspondence and Records. 11:46:41

6 In the Office of Correspondence and 11:46:41
7 Records, the director would examine the request and, 11:46:43
8 based on its content, based on the subject matter, 11:46:47
9 make a determination where responsive records would 11:46:50
10 likely be located, and would task it out 11:46:53
11 appropriately based on that determination. 11:46:57

12 Q Okay. And if that determination was made 11:46:58
13 that Ms. Abedin's e-mail records would be a 11:47:02
14 potential source of potentially responsive records, 11:47:07
15 where would that be tasked? The search -- the 11:47:11
16 search itself, how would -- where would that be 11:47:15
17 tasked? 11:47:17

18 MS. WOLVERTON: Objection. Calls for 11:47:18
19 speculation. 11:47:19

20 Q You may answer the question. 11:47:21

21 A The general policy of the State Department 11:47:22
22 is that current employees are asked to search their 11:47:25

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1	own e-mail records.	11:47:28
2	Q Okay. And if a current employee is -- if	11:47:31
3	Ms. Abedin were to be asked to search her e-mail	11:47:34
4	records, would any -- was any -- would any guidance	11:47:40
5	have been provided to her about how to conduct that	11:47:44
6	search?	11:47:47
7	MS. WOLVERTON: Objection. Calls for	11:47:47
8	speculation.	11:47:48
9	Q You can answer the question.	11:47:49
10	A General guidance for searchers is provided	11:47:51
11	on the DS-1748 tasker.	11:47:57
12	Q Okay. Would the State Department require	11:48:01
13	Ms. Abedin, who was Deputy Chief of Staff, to	11:48:07
14	conduct the search of her records, or could another	11:48:13
15	staff person within her office search such records?	11:48:15
16	MS. WOLVERTON: Objection. Calls for	11:48:19
17	speculation.	11:48:21
18	Q You can answer the question.	11:48:22
19	A Generally that kind of decision is left to	11:48:24
20	the individual employee.	11:48:26
21	Q Okay. Does -- when it's tasked from the	11:48:27
22	Correspondence and Records office, does the	11:48:35

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1	Correspondence and Records -- when -- when it is	11:48:37
2	returned to the -- to that office, do they review	11:48:41
3	the searches that were conducted?	11:48:45
4	A Can you be more specific?	11:48:48
5	Q Sure. Would the Correspondence and	11:48:49
6	Records office have a discussion with Ms. Abedin	11:48:53
7	about how she conducted the searches?	11:48:56
8	MS. WOLVERTON: Objection. Calls for	11:48:59
9	speculation.	11:49:00
10	Q You can answer the question.	11:49:01
11	A Not to my knowledge.	11:49:02
12	Q Okay. Would this procedure be the same	11:49:03
13	for a Secretary of State?	11:49:08
14	MS. WOLVERTON: Objection. Calls for	11:49:13
15	speculation.	11:49:14
16	Q You can answer the question.	11:49:14
17	A Are you specifically referring to an	11:49:15
18	e-mail search?	11:49:18
19	Q Yes, e-mail search.	11:49:19
20	If -- if e-mail is implicated -- if	11:49:22
21	e-mail -- if a FOIA request came in that implicated	11:49:24
22	Mrs. Clinton's e-mails, would the tasking have	11:49:27

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1	occurred the same way, even though she was Secretary	11:49:32
2	of State?	11:49:36
3	MS. WOLVERTON: Objection. Calls for	11:49:37
4	speculation.	11:49:38
5	Q You can answer the question.	11:49:38
6	A Prior to Secretary Kerry, no Secretary of	11:49:40
7	State used a State.gov e-mail address.	11:49:43
8	Q And how does the -- was Mrs. Clinton ever	11:49:47
9	asked to search her e-mails for potentially	11:49:52
10	responsive records during the time period she was	11:49:57
11	Secretary of State?	11:50:01
12	A No.	11:50:02
13	Q Did Mr. Finney ever have any discussions	11:50:02
14	with anyone within the Office of the Secretary about	11:50:06
15	potential -- about FOIA requests that implicated	11:50:11
16	Mrs. Clinton's e-mails?	11:50:14
17	A Can you be more specific?	11:50:19
18	Q During that time period while Mrs. Clinton	11:50:20
19	was in office, did Mr. Finney have any conversations	11:50:25
20	with Ms. Cheryl Mills about FOIA requests that may	11:50:29
21	implicate Mrs. Clinton's e-mails?	11:50:33
22	A No.	11:50:35

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1	Q	Did he have any discussions with	11:50:35
2		Ms. Abedin during that time period about FOIA	11:50:38
3		requests that may implicate Mrs. Clinton's e-mails?	11:50:41
4	A	No.	11:50:45
5	Q	Did anybody else within the Correspondence	11:50:45
6		and Records office have -- have conversations with	11:50:50
7		Mrs. Clinton, Ms. Mills, and Ms. Abedin about FOIA	11:50:54
8		requests that may implicate Mrs. Clinton's e-mails?	11:50:57
9	A	No.	11:51:00
10	Q	Did anybody within IPS have any	11:51:00
11		conversations with anyone within the Office of the	11:51:07
12		Secretary about FOIA requests that may implicate	11:51:10
13		Mrs. Clinton's e-mails?	11:51:13
14	A	I'm sorry, that question is -- is very	11:51:16
15		broad. Can you be more specific?	11:51:18
16	Q	Sure. While Mrs. Clinton was in office,	11:51:20
17		did IPS have any conversations with any individuals	11:51:25
18		within the Office of the Secretary about a FOIA	11:51:29
19		request or about FOIA requests that came into the	11:51:32
20		department that implicated Mrs. Clinton's e-mails?	11:51:36
21	A	Not to my knowledge. And I would be	11:51:43
22		surprised to hear. Because normal practice,	11:51:45

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1 standard procedure, was for IPS to deal with the 11:51:48
2 Office of Correspondence and Records within the 11:51:53
3 Executive Secretariat. 11:51:55

4 Q Okay. And during that time period, who 11:51:56
5 was the director of IPS? 11:51:59

6 A The time period encompassing the whole 11:52:03
7 four years? 11:52:05

8 Q The whole four years. Yes. Thank you. 11:52:05
9 Sorry about that. 11:52:08

10 A The whole four years. 11:52:09

11 Okay. At the beginning of Secretary 11:52:11
12 Clinton's tenure in -- on -- in January 2009, the 11:52:12
13 director of IPS was Margaret Grafeld. 11:52:16

14 Q Okay. And after -- after her? 11:52:19

15 A She became the Deputy Assistant Secretary 11:52:21
16 supervising IPS in 2010. And for a time there were 11:52:26
17 two acting co-directors of IPS, Charlene Thomas and 11:52:31
18 Alex Galovich. 11:52:37

19 Q Could you spell that last name, please. 11:52:40

20 A With some -- with no degree of certainty, 11:52:45
21 G-A-L-O-V-I-C-H. 11:52:48

22 Q Thank you. 11:52:51

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1	A	Later in December 2011, Sheryl Walter took	11:52:54
2		over as Director of IPS. She remained Director of	11:52:59
3		IPS until the end of Secretary Clinton's term in	11:53:03
4		2013.	11:53:08
5	Q	Okay. Thank you.	11:53:08
6		And you said that Ms. Grafeld became	11:53:12
7		Deputy Assistant Secretary that oversaw IPS in 2010.	11:53:14
8		When did she -- did she hold that position for the	11:53:19
9		remainder of Mrs. Clinton's tenure?	11:53:22
10	A	Yes.	11:53:24
11	Q	Prior to her taking that position, from	11:53:24
12		January 2009 to 2010, who held that position?	11:53:27
13	A	The Deputy Assistant Secretary position?	11:53:33
14	Q	Yes.	11:53:35
15	A	I believe it was Llewellyn Hedgbeth.	11:53:36
16	Q	Could you spell that name, please. To the	11:53:38
17		best of your ability.	11:53:43
18	A	L-L-E-W-E-L-L-E-N, H-E-D-G-B-E-T-H.	11:53:46
19	Q	Thank you. I think that was the most	11:54:00
20		difficult name so far today. Hopefully they get	11:54:02
21		easier, if there are other names.	11:54:05
22		And those -- the Deputy Assistant	11:54:08

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1	Secretary position, who did they report to? Who did	11:54:11
2	they report to during the time period?	11:54:14
3	A The Deputy Assistant Secretary reports to	11:54:16
4	the Assistant Secretary for Administration.	11:54:19
5	Q Okay. And who was that person between	11:54:22
6	2009 and 2013?	11:54:25
7	A At the time Secretary Clinton came to the	11:54:27
8	department, there was an acting Assistant Secretary	11:54:30
9	named Stephen Rodriguez.	11:54:34
10	Q Okay. And how long did he remain acting?	11:54:36
11	A I believe he remained acting until	11:54:40
12	December 2011, when Ambassador Joyce Barr was -- was	11:54:42
13	sworn in as Assistant Secretary For Administration.	11:54:48
14	Q Okay. And did she hold that position	11:54:50
15	through the end of Mrs. Clinton's tenure?	11:54:53
16	A Yes.	11:54:56
17	Q Okay. And who does -- who did they report	11:54:56
18	to?	11:54:59
19	A The Assistant Secretary For Administration	11:54:59
20	reports to the Under Secretary for Management.	11:55:02
21	Q And who is that person?	11:55:04
22	A That person is Patrick Kennedy.	11:55:07

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1	Q	And did he hold that position for the full	11:55:08
2		four years Mrs. Clinton was in office?	11:55:12
3	A	Yes.	11:55:13
4	Q	And Mr. Kennedy, does he report directly	11:55:14
5		to the Secretary -- does the Under Secretary for	11:55:17
6		Management report to the Secretary of State?	11:55:20
7	A	Yes.	11:55:27
8	Q	During this time period while Mrs. Clinton	11:55:27
9		was in office, did the correspondence -- did the	11:55:41
10		Correspondence and Records office, were they aware	11:55:52
11		that Ms. Abedin would use a non-State.gov e-mail	11:55:55
12		account for work-related purposes?	11:56:00
13	A	No.	11:56:03
14	Q	When did the Correspondence and Records	11:56:03
15		office learn that Ms. Mills -- sorry, Ms. Abedin	11:56:08
16		used a non-State.gov e-mail account for work-related	11:56:11
17		purposes?	11:56:16
18	A	The department sent letters to Ms. Abedin	11:56:19
19		in -- and Ms. Mills in March of 2015 seeking	11:56:22
20		information about possible federal records located	11:56:27
21		in -- in non-State.gov accounts.	11:56:31
22	Q	And why did they send those letters?	11:56:36

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1 A Based on information -- based on a desire 11:56:40
2 to determine whether there was information. 11:56:43

3 Q Okay. During the time period Mrs. Clinton 11:56:46
4 was in office, did the Office of Correspondence and 11:56:54
5 Records ask Ms. Abedin whether she was using a 11:56:58
6 state -- a non-State Department e-mail address to -- 11:57:02
7 for work-related purposes? 11:57:05

8 A No. 11:57:07

9 Q Did the Office of Correspondence and 11:57:07
10 Records ask anyone else within the State Department 11:57:12
11 during that time period if Ms. Abedin was using a 11:57:15
12 non-State Department e-mail account for work-related 11:57:18
13 purposes? 11:57:21

14 A No. 11:57:22

15 Q Okay. Do you know if the -- I'll just ask 11:57:22
16 it. 11:57:29

17 Did S/ES-IRM know that Ms. Abedin would 11:57:30
18 use a non-State Department e-mail address to conduct 11:57:35
19 government business during -- during the tenure? 11:57:39

20 A Not to my knowledge. 11:57:44

21 Q Okay. Do you know who would have that 11:57:46
22 information? 11:57:47

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1	A	Current or former employees of S/ES-IRM.	11:57:48
2	Q	Okay. Do you know who the Director of	11:57:55
3		IRM -- S/ES-IRM was during Mrs. Clinton's tenure?	11:57:58
4	A	Yes. John Bentel.	11:58:02
5	Q	Was he the director the entire time?	11:58:04
6	A	I believe so.	11:58:08
7	Q	Okay. Thank you.	11:58:08
8		Is Mr. Bentel still an employee of the	11:58:09
9		State Department?	11:58:11
10	A	No.	11:58:12
11	Q	When did he retire; do you know?	11:58:12
12	A	I don't know the exact date.	11:58:17
13	Q	Do you have a sense, a time frame	11:58:18
14		generally of when he left the employment of the	11:58:23
15		State Department?	11:58:25
16		MS. WOLVERTON: I'll object here that this	11:58:26
17		line has gone beyond the scope of the notice	11:58:28
18		30(b)(6) deposition topic and instruct the witness	11:58:30
19		not to answer.	11:58:33
20		MR. BEKESHA: Okay.	11:58:34
21	Q	During -- during Mrs. -- while	11:58:35
22		Mrs. Clinton was in office, was Mrs. Clinton trained	11:58:37

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1	with respect to FOIA-related issues?	11:58:40
2	A No.	11:58:45
3	Q During the time period Mrs. Clinton was in	11:58:45
4	office, was Ms. Abedin trained on FOIA-related	11:58:49
5	issues?	11:58:53
6	A No.	11:58:53
7	Q Is that unusual?	11:58:54
8	MS. WOLVERTON: Objection. Vague, and	11:58:59
9	extends beyond the scope of the notice 30(b)(6)	11:59:03
10	deposition topic.	11:59:06
11	I'll instruct the witness not to answer.	11:59:06
12	Q Were other employees within the Office of	11:59:09
13	the Secretary trained with respect to FOIA-related	11:59:14
14	issues during that time period?	11:59:16
15	MS. WOLVERTON: Objection. Extends beyond	11:59:18
16	the scope of the notice 30(b)(6) deposition topic.	11:59:19
17	I'll instruct the witness not to answer on	11:59:22
18	that basis.	11:59:24
19	Q During -- while Mrs. Clinton was in	11:59:25
20	office, was anyone within the -- any employees	11:59:27
21	within the Office of the Secretary trained about	11:59:30
22	managing Ms. Abedin's e-mails for FOIA-related	11:59:33

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1	purposes?	11:59:39
2	A No.	11:59:42
3	Q Would Ms. -- how would Ms. Mills know what	11:59:42
4	her obligations were when it came to FOIA and her	11:59:45
5	e-mails, if she weren't trained?	11:59:50
6	MS. WOLVERTON: Objection. Extends beyond	11:59:52
7	the scope of the notice 30(b)(6) deposition topic.	11:59:54
8	I'll instruct the witness not to answer.	11:59:56
9	MR. BEKESHA: Sure.	11:59:58
10	Q You said that Ms. Abedin -- if a FOIA	11:59:58
11	request came in that concerned Ms. Abedin's e-mails,	12:00:01
12	that the normal practice was for the individual	12:00:04
13	employee, so Ms. Abedin, to search her e-mails for	12:00:06
14	records responsive to FOIA.	12:00:10
15	How would she know what to do if she	12:00:12
16	weren't trained to do so?	12:00:14
17	MS. WOLVERTON: Objection. Calls for	12:00:15
18	speculation, and extends beyond the scope of the	12:00:18
19	notice 30(b)(6) deposition topic.	12:00:20
20	Q You may answer the question.	12:00:23
21	A The OIG report issued in January of this	12:00:29
22	year found that there was insufficient training of	12:00:32

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1	employees generally in the -- in the secretariat	12:00:36
2	regarding FOIA.	12:00:40
3	Q Why did the State Department not train	12:00:47
4	Ms. Abedin and Mrs. Clinton on FOIA-related issues	12:00:48
5	when they -- when they came in?	12:00:52
6	MS. WOLVERTON: Objection. Extends beyond	12:00:55
7	the notice of the 30(b)(6) deposition notice.	12:00:57
8	I'll instruct the witness not to answer on	12:01:00
9	that basis.	12:01:02
10	Q Why was Ms. Abedin and Ms. Clinton not	12:01:02
11	trained with respect to FOIA and their e-mails while	12:01:06
12	they were in office?	12:01:08
13	MS. WOLVERTON: Objection. Extends beyond	12:01:08
14	the scope of the notice deposition topic, and I'll	12:01:10
15	instruct the witness not to answer on that basis.	12:01:14
16	Q Did -- did anybody in the State Department	12:01:16
17	ever -- did the State Department ever ask	12:01:35
18	Mrs. Clinton if she was using a personal e-mail	12:01:37
19	account to conduct work-related business?	12:01:40
20	MS. WOLVERTON: Objection. Extends beyond	12:01:44
21	the scope of the notice 30(b)(6) deposition topic.	12:01:45
22	I'll instruct the witness not to answer on	12:01:50

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1	that basis.	12:01:51
2	Q When responding to -- when responding to	12:01:52
3	FOIA requests, did anybody in the State Department	12:01:53
4	while Mrs. Clinton was in office ever ask	12:01:55
5	Mrs. Clinton if she was using a non-State.gov e-mail	12:01:57
6	account to conduct official government business?	12:02:01
7	A No.	12:02:03
8	Q Let's switch gears again and talk about	12:02:04
9	processing of FOIA requests for e-mails of	12:02:18
10	Mrs. Clinton, Ms. Abedin subsequent to	12:02:20
11	Mrs. Clinton's tenure as Secretary of State. So if	12:02:24
12	I ask a question, you can assume it would be the	12:02:26
13	time period, let's say, between February 2013 and	12:02:30
14	March 2015.	12:02:36
15	Are you aware of any FOIA requests	12:02:40
16	submitted to the State Department between February	12:02:42
17	2013 and March 2015 that implicated Mrs. Clinton and	12:02:45
18	Ms. Abedin's e-mails?	12:02:50
19	A Yes.	12:02:54
20	Q Do you know approximately how many?	12:02:54
21	MS. WOLVERTON: Objection. Extends beyond	12:02:55
22	the notice of the notice 30(b)(6) deposition topic.	12:02:57

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1	Q	You may answer the question.	12:03:00
2	A	As I indicated earlier, the State	12:03:01
3		Department doesn't keep FOIA records in that way.	12:03:04
4	Q	Besides the FOIA requests at issue in this	12:03:08
5		case, do you recall any specific FOIA requests or do	12:03:12
6		you know of any specific FOIA requests that were	12:03:14
7		received for -- by the State Department between	12:03:17
8		February 2013 and March 2015 that implicated Mrs. --	12:03:19
9		February 2013 and March 2015?	12:03:25
10	MS. BERMAN:	That's not what you said	12:03:29
11		before.	12:03:30
12	MS. WOLVERTON:	Anyway, in any event,	12:03:30
13		objection. Extends beyond the scope of the notice	12:03:32
14		30(b)(6) deposition topic.	12:03:35
15	MS. BERMAN:	You said that the time frame	12:03:37
16		for this line of questioning was February 2014 to	12:03:38
17		March 2015.	12:03:42
18	MS. WOLVERTON:	I think he said '13.	12:03:43
19		Could --	12:03:47
20	MR. BEKESHA:	Could you read --	12:03:48
21	MS. WOLVERTON:	Or just clarify it.	12:03:49
22	MS. BERMAN:	Just clarify it.	12:03:51

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1	Q	Okay. I've been talking about February	12:03:53
2		2013, when Mrs. Clinton left office.	12:03:57
3	A	That is what I understood.	12:03:59
4	Q	Thank you.	12:04:01
5		MS. BERMAN: Sorry, everyone.	12:04:02
6	Q	So I will -- I'll ask the question again.	12:04:03
7		Besides this specific -- besides this specific FOIA	12:04:05
8		request at issue in this case, do you know of any	12:04:09
9		specific FOIA requests received by the department	12:04:10
10		between February 2013 and March 2015 that may	12:04:13
11		implicate Mrs. Clinton's and Ms. Abedin's e-mails?	12:04:17
12		MS. WOLVERTON: Objection. Extends beyond	12:04:21
13		the scope of the notice 30(b)(6) deposition topic.	12:04:22
14	Q	You may answer the question.	12:04:25
15	A	Yes.	12:04:27
16	Q	Okay. During this time period, who within	12:04:27
17		the Office of Correspondence and Records was in	12:04:32
18		charge of processing such FOIA requests?	12:04:36
19	A	Clarence Finney.	12:04:39
20	Q	Okay. During this time period, because	12:04:40
21		Mrs. Clinton was out of office and so was	12:04:44
22		Ms. Abedin, who had access -- where were her e-mail	12:04:49

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1	records located?	12:04:53
2	MS. WOLVERTON: Objection. Vague. Whose	12:04:54
3	e-mail records?	12:04:56
4	Q Ms. Abedin's e-mail records located. I	12:04:56
5	apologize.	12:04:59
6	A Ms. Abedin's e-mail records at that point	12:05:00
7	were located in S/ES-IRM.	12:05:02
8	Q And when -- how long were they located	12:05:04
9	there?	12:05:08
10	A From the time she left office.	12:05:10
11	Q And they're currently still there?	12:05:12
12	A Yes.	12:05:14
13	Q Okay. Thank you.	12:05:15
14	And who would have been in charge of	12:05:16
15	reviewing Ms. Abedin's e-mails during that time	12:05:19
16	period?	12:05:26
17	MS. WOLVERTON: Objection. Vague.	12:05:27
18	Q Who within S/ES-IRM responsibility would	12:05:28
19	it be to search these archived PST files?	12:05:32
20	MS. WOLVERTON: To clarify, you mean for	12:05:36
21	purposes of processing FOIA?	12:05:38
22	MR. BEKESHA: For processing FOIA, yes.	12:05:40

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1 A To clarify, S/ES-IRM does not conduct FOIA 12:05:42
2 searches of PSTs. 12:05:47

3 When S/ES -- when -- when the Office of 12:05:49
4 Correspondence and Records or at this point the 12:05:55
5 Office of the Secretariat staff needs to conduct a 12:05:56
6 search of those electronic records, the secretariat 12:06:01
7 staff contacts S/ES-IRM to make that PST available 12:06:05
8 for searching. 12:06:10

9 Q Okay. So the correspondence -- somebody 12:06:12
10 within the Office of Correspondence and Records 12:06:16
11 would actually conduct the search. 12:06:17

12 A Correct. 12:06:19

13 Q Okay. Thank you. 12:06:19

14 During, more generally, between January 12:06:29
15 2009 and March 2015, while the State Department was 12:06:33
16 processing FOIA requests that may implicate 12:06:38
17 Mrs. Clinton or Ms. Abedin's e-mail, did any State 12:06:42
18 Department employees come across a non-State.gov 12:06:50
19 e-mail account for Mrs. Clinton or Ms. Abedin? 12:06:50

20 MS. WOLVERTON: Objection. Extends beyond 12:06:53
21 the scope of the notice 30(b)(6) deposition topic. 12:06:54

22 I'll instruct the witness not to answer. 12:06:57

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1 MR. BEKESHA: And that's just asking about 12:07:01
2 processing of FOIA requests that implicate 12:07:02
3 Mrs. Clinton and Ms. Abedin's e-mails. 12:07:04

4 MS. WOLVERTON: But there's no foundation 12:07:06
5 for who you're talking about, whose e-mails, and 12:07:07
6 that they had any tie to FOIA processing. 12:07:12

7 Q While the State -- while the State 12:07:15
8 Department was processing any of Ms. Abedin's 12:07:18
9 e-mails in response to a FOIA request received 12:07:20
10 between January 2009 and March 2015, did the State 12:07:24
11 Department come across, see, a non-State.gov e-mail 12:07:30
12 account for Ms. Abedin? 12:07:35

13 MS. WOLVERTON: Objection. Extends beyond 12:07:39
14 the scope of the notice 30(b)(6) deposition topic. 12:07:41

15 Q You may answer. 12:07:44

16 MS. WOLVERTON: And I instruct the witness 12:07:44
17 not to answer. 12:07:46

18 You can tailor it to the topic, which is 12:07:47
19 request for -- FOIA requests for e-mails of former 12:07:53
20 Secretary Clinton and Huma Abedin. 12:07:57

21 Q Okay. While the State Department was 12:07:59
22 processing FOIA -- FOIA requests that may implicate 12:08:01

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1	Mrs. Clinton and Ms. Abedin's e-mails, did the State	12:08:05
2	Department come across a non-State.gov e-mail	12:08:10
3	account for Ms. Abedin?	12:08:14
4	A Can you clarify "come across"?	12:08:21
5	Q Within the records that were reviewed, was	12:08:23
6	it -- did they -- did the State Department see the	12:08:30
7	e-mail account, see an e-mail -- a non-State.gov	12:08:32
8	e-mail address for Ms. Abedin?	12:08:36
9	A I have no basis for responding to that	12:08:37
10	question.	12:08:39
11	Q Do you know who would have -- who would	12:08:42
12	potentially know that information?	12:08:45
13	A The question, as I understand it,	12:08:46
14	doesn't -- doesn't make sense in the context of	12:08:51
15	processing FOIA requests.	12:08:53
16	If -- if a FOIA request -- if potentially	12:08:59
17	responsive or responsive documents on a given	12:09:02
18	subject were being reviewed, the -- the e-mail	12:09:05
19	addresses that may be involved in those -- in those	12:09:09
20	potentially responsive documents would not	12:09:13
21	necessarily be an item of attention of the reviewer,	12:09:16
22	unless that was the specific topic.	12:09:22

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1	Q	But would a reviewer review the e-mail	12:09:27
2		addresses on the page to ensure there was -- no	12:09:30
3		redactions were necessary?	12:09:32
4	A	Yes.	12:09:37
5	Q	During that review process, did the State	12:09:37
6		Department see a non-State.gov e-mail account for	12:09:42
7		Ms. Abedin?	12:09:44
8	A	The way that IPS maintains its files, it's	12:09:48
9		not possible to give a definitive answer to that	12:09:52
10		question, because it would require looking in each	12:09:54
11		individual FOIA response during that time frame and	12:10:00
12		each individual document that was provided in	12:10:05
13		response to a FOIA request to check for redactions.	12:10:08
14	Q	Would --	12:10:12
15	A	So I cannot -- I cannot definitively	12:10:13
16		answer that question.	12:10:16
17	Q	Would Mr. Finney -- during Mrs. Clinton's	12:10:16
18		tenure as Secretary of State, for e-mail -- for FOIA	12:10:19
19		requests that implicated Mrs. Clinton's e-mail and	12:10:23
20		Ms. Abedin's e-mail, did Mr. Finney review	12:10:26
21		responsive records that were located, or potentially	12:10:29
22		responsive records that were located?	12:10:34

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1	A	That were located where?	12:10:39
2	Q	Within the -- within the Office of the	12:10:40
3		Executive Secretariat.	12:10:43
4	A	Yes.	12:10:43
5	Q	Did he review those -- would he have	12:10:43
6		reviewed those e-mails in unredacted form?	12:10:46
7	A	Yes.	12:10:49
8	Q	Would Mr. Finney, therefore, know -- be	12:10:49
9		aware of what he saw on the pages that he reviewed	12:10:54
10		as response to those FOIA requests?	12:10:59
11	A	Not necessarily e-mail addresses.	12:11:03
12	Q	Would he -- to the extent he was reviewing	12:11:08
13		those e-mail addresses for either responsiveness or	12:11:10
14		for privilege claims, would he have looked at the	12:11:13
15		e-mail addresses?	12:11:17
16		MS. WOLVERTON: Objection. Lack of	12:11:18
17		foundation, assumes facts not in evidence.	12:11:19
18	Q	You may answer the question.	12:11:22
19	A	The Office of Correspondence and Records,	12:11:25
20		like other department bureaus and offices that --	12:11:28
21		that conducts FOIA searches and produces potentially	12:11:30
22		responsive documents, is not responsible for	12:11:34

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1	examining those documents for possible redactions or	12:11:38
2	exemptions under the FOIA. That is a responsibility	12:11:41
3	of IPS.	12:11:44
4	Q Thank you for that. That helps clarify.	12:11:49
5	So during -- while Mrs. Clinton was in	12:11:50
6	office and a FOIA request was received that -- for	12:11:53
7	records that may implicate Mrs. Clinton and	12:11:57
8	Ms. Abedin's e-mail, did anyone within IPS become	12:11:59
9	aware of a non-State.gov e-mail account for	12:12:03
10	Ms. Abedin while conducting the privilege or other	12:12:10
11	review that you were just discussing?	12:12:13
12	A It's not possible to definitively answer	12:12:17
13	that question.	12:12:20
14	Q Would it be possible by asking individual	12:12:25
15	employees that reviewed -- reviewed records	12:12:27
16	responsive to FOIA requests?	12:12:30
17	MS. WOLVERTON: Objection. Extends beyond	12:12:32
18	the scope of the notice 30(b)(6) deposition topic.	12:12:34
19	I'll instruct the witness not to answer	12:12:36
20	that question.	12:12:38
21	Q Is there one individual at IPS that would	12:12:38
22	review nonredacted -- unredacted versions of records	12:12:41

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1	that were potentially responsive to FOIA requests	12:12:45
2	sent during Mrs. Clinton's tenure that implicated	12:12:48
3	Mrs. Clinton or Ms. Abedin's e-mails?	12:12:51
4	A Is there one individual?	12:12:55
5	Q One or two individuals.	12:12:57
6	A No. There are multiple individuals.	12:12:59
7	Q Do you know if any of those individuals	12:13:01
8	saw either -- saw a non-State.gov e-mail account for	12:13:15
9	Ms. Abedin?	12:13:19
10	A It's not possible to definitively answer	12:13:23
11	that question.	12:13:25
12	Q Okay. Do you know if any of those	12:13:27
13	individuals saw a non-State.gov e-mail account for	12:13:29
14	Mrs. Clinton?	12:13:33
15	A Again, it's not possible to definitively	12:13:36
16	answer that question.	12:13:38
17	Q Do you know if any of those individuals	12:13:38
18	that reviewed the records discussed whether or not	12:13:42
19	they -- whether they saw a non-State.gov e-mail	12:13:47
20	account for Ms. Abedin or Ms. Mills?	12:13:50
21	A No.	12:13:54
22	Q Who did those individuals report to?	12:13:54

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1	A	Which individuals?	12:14:01
2	Q	The ones that were reviewing unredacted	12:14:02
3		versions of records for redactions.	12:14:05
4	MS. WOLVERTON:	You mean in IPS?	12:14:07
5	MR. BEKESHA:	In IPS, yes.	12:14:09
6	A	Would it be helpful to explain to you how	12:14:12
7		a review for redactions works within IPS?	12:14:16
8	Q	That would be great. That probably would	12:14:18
9		be the easiest way to get -- to get to my questions.	12:14:22
10		Thank you.	12:14:26
11	A	When the case analyst in IPS receives back	12:14:27
12		potentially responsive documents from the bureau or	12:14:32
13		office that was tasked with conducting the search,	12:14:35
14		as we discussed earlier, the case analyst goes	12:14:40
15		through those potentially responsive documents to	12:14:42
16		determine whether or not they are, in fact,	12:14:46
17		responsive to the request that was received.	12:14:47
18		After doing that review for	12:14:52
19		responsiveness, the case analyst sends the documents	12:14:54
20		to be scanned into IPS's electronic document	12:14:57
21		management system.	12:15:02
22		When that scanning process is done and	12:15:05

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1	those documents have been scanned and given a case	12:15:07
2	identifying number electronically, then the analyst	12:15:11
3	makes those files available to reviewers.	12:15:16
4	Reviewers within IPS are retired foreign	12:15:21
5	service officers who are hired to -- with specific	12:15:24
6	subject-matter knowledge certified by various	12:15:30
7	bureaus and offices to review subject matter that is	12:15:34
8	specific to their area of experience.	12:15:37
9	Those retired foreign service officers	12:15:39
10	conduct what we call a two-level review, a	12:15:42
11	line-by-line review of each -- each responsive	12:15:49
12	document, to determine the releaseability under the	12:15:52
13	FOIA, make redactions.	12:15:57
14	The first -- the first of them conducts a	12:15:59
15	review, and then the second of them conducts a	12:16:02
16	supervisory review, a quality control check.	12:16:04
17	Q And who do those foreign service officers,	12:16:13
18	who do they directly report to?	12:16:15
19	A Can we refer back to the organization	12:16:18
20	chart?	12:16:20
21	Q Absolutely.	12:16:20
22	A So 7C.	12:16:34

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1 If you look in the Statutory Compliance 12:16:51
2 and Research Division, they would -- they would 12:16:54
3 be -- those retired foreign service officers are 12:16:57
4 located throughout that division, working with the 12:17:00
5 case analysts in those branches. 12:17:05

6 Q Okay. Would the case analysts see the 12:17:10
7 records with -- the unredacted versions of the 12:17:15
8 records? 12:17:19

9 A Yes. The case analyst receive the 12:17:20
10 unredacted versions from the bureau or office that 12:17:23
11 did the search. 12:17:26

12 Q Okay. And then they would task those 12:17:27
13 records out to the former foreign service officer, 12:17:30
14 or retired foreign service officers, and then the 12:17:35
15 records would be sent back to the case analyst? 12:17:37

16 A Correct. 12:17:41

17 Q When they were sent back were they in 12:17:42
18 redacted or -- would they be in redacted or 12:17:43
19 unredacted forms? 12:17:45

20 A The redactions at that point would already 12:17:46
21 have been done. In some cases the redactions may 12:17:48
22 need to be consulted with the bureau that originated 12:17:52

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1	the documents. So the -- so the case analyst would	12:17:54
2	then serve -- would sort of serve as a liaison to go	12:18:02
3	back to the originating bureau or office for their	12:18:05
4	concurrence on the redactions.	12:18:07
5	Q Okay. Between January 2009 and March	12:18:09
6	2015, did anyone within the -- within IPS, while	12:18:17
7	responding to FOIA requests that may implicate	12:18:21
8	Mrs. Clinton or Ms. Abedin's e-mails, become aware	12:18:24
9	of the HDR22@Clintonemail.com e-mail address?	12:18:27
10	A It's not possible for me to definitively	12:18:35
11	answer that question.	12:18:37
12	Q Okay. And would that be the same answer	12:18:38
13	for the Huma@Clintonemail.com e-mail address?	12:18:41
14	A Yes.	12:18:46
15	Q Okay.	12:18:47
16	MS. BERMAN: Can we take a short break?	12:18:56
17	MR. BEKESHA: Sure.	12:18:59
18	VIDEO SPECIALIST: This marks the end of	12:19:00
19	Tape Number 3 in the deposition of Karin Lang. We	12:19:01
20	are off the record at 12:19.	12:19:04
21	(A recess was taken.)	12:19:06
22	VIDEO SPECIALIST: Here begins Tape Number	12:29:45

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1 4 in the deposition of Karin Lang. We are back on 12:29:46
2 the record at 12:29. 12:29:48

3 MR. BEKESHA: Great. Thank you. 12:29:51

4 BY MR. BEKESHA: 12:29:51

5 Q I -- I should just have a few more 12:29:53
6 questions. 12:29:55

7 You testified earlier that you recall or 12:29:55
8 that you know of specific FOIA requests that were 12:29:58
9 sent during Mrs. Clinton's tenure that implicated 12:30:01
10 Mrs. Clinton -- that potentially implicated 12:30:07
11 Mrs. Clinton and Ms. Abedin's e-mail records. 12:30:10

12 Which -- what -- what FOIA requests are 12:30:13
13 those that you recall, that you know of? 12:30:15

14 MS. WOLVERTON: Objection. Extends beyond 12:30:17
15 the scope of the notice 30(b)(6) deposition topic. 12:30:18

16 Q You may answer the question. 12:30:21

17 A I can't recall any specific cases. 12:30:25

18 Q So what -- did you have conversations with 12:30:30
19 Mr. Finney or anyone else about specific FOIA 12:30:37
20 requests that were received while Mrs. Clinton's -- 12:30:40
21 during Mrs. Clinton's tenure? 12:30:43

22 MS. WOLVERTON: Objection. Extends beyond 12:30:45

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1	the scope of the notice 30(b)(6) deposition topic.	12:30:47
2	I'll instruct the witness not to answer.	12:30:49
3	Q You testified earlier that you were -- you	12:30:52
4	are aware of specific FOIA requests that were sent	12:30:55
5	after Mrs. Clinton left office that implicated	12:31:00
6	Mrs. Clinton or Ms. Abedin's e-mails.	12:31:04
7	What -- which -- what FOIA requests are	12:31:08
8	you aware of?	12:31:11
9	MS. WOLVERTON: Objection. Extends beyond	12:31:11
10	the scope of the notice 30(b)(6) deposition topic.	12:31:13
11	Also mischaracterizes former testimony.	12:31:16
12	Q You may answer the question.	12:31:19
13	A Can you clarify the time frame?	12:31:21
14	Q The time frame of February 2013 to March	12:31:23
15	2015.	12:31:29
16	A Yes.	12:31:36
17	Q What specific FOIA requests do -- do you	12:31:36
18	know of?	12:31:41
19	MS. WOLVERTON: Same objections.	12:31:41
20	Q You may answer the question.	12:31:43
21	A I'm not prepared to discuss specific	12:31:44
22	cases.	12:31:46

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1	Q	We discussed earlier Form DS-1748. On	12:31:47
2		that form does it discuss use of personal e-mail for	12:31:54
3		official government business?	12:32:04
4	MS. WOLVERTON:	Objection. Assumes facts	12:32:06
5		not in evidence, lack of foundation.	12:32:09
6	Q	You may answer the question.	12:32:11
7	MS. WOLVERTON:	And the document speaks	12:32:14
8		for itself.	12:32:15
9	A	I would have to refer to the document.	12:32:18
10	Q	Okay. Do you know, do you have a copy	12:32:20
11		of that -- of a DS-1748 form with you today?	12:32:26
12	A	We do not.	12:32:30
13	Q	What is your -- what is your understanding	12:32:30
14		of the DS-17 -- what is on the DS-1748 form?	12:32:40
15	MS. WOLVERTON:	Objection. The document	12:32:44
16		speaks for itself.	12:32:46
17	Q	You may answer the question.	12:32:47
18	A	It's primarily to document the search that	12:32:48
19		was conducted. It's an instruction from the IPS	12:32:51
20		office, to the office that's been searched -- that's	12:32:55
21		been tasked to do a search. And then it is the	12:32:58
22		response from the office that has been tasked to do	12:33:03

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1	that search, documenting the search that it has	12:33:06
2	conducted.	12:33:08
3	Q What do you mean by "an instruction"?	12:33:09
4	A It contains the information about the	12:33:13
5	specific FOIA request, the subject, the keywords if	12:33:16
6	there are any, the date ranges.	12:33:21
7	Q You mentioned earlier that you had -- you	12:33:24
8	spoke with Mr. Finney in preparation for today's	12:33:35
9	deposition. Who else did you speak with?	12:33:37
10	A A number of people, current and former	12:33:44
11	employees of the State Department.	12:33:47
12	Q Who are those individuals?	12:33:48
13	You may answer the question.	12:33:52
14	A We have a list prepared.	12:33:53
15	Q Are there -- is there more than one copy	12:33:59
16	of the list?	12:34:01
17	MS. BERMAN: She can read it into the	12:34:03
18	record.	12:34:04
19	MR. BEKESHA: Okay. That -- that's fine.	12:34:05
20	If you want to go ahead and read the list into the	12:34:06
21	record.	12:34:08
22	A Sure. John Hackett, formerly in IPS;	12:34:09

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1	Karen Finnegan, formerly in IPS; Margaret Grafeld,	12:34:18
2	A/GIS; William Fischer, IPS; Eric Stein, IPS; Tasha	12:34:22
3	Thian, formerly in IPS; Sheryl Walter, formerly in	12:34:31
4	IPS; Julia Navarro, IPS; Mary Casto, IPS; Jeanne	12:34:35
5	Miller, IPS; Edgar Jaramillo, IPS; Susan Weetman,	12:34:43
6	IPS; Patrick Scholl, IPS; Patrick Kennedy, M;	12:34:52
7	Clarence Finney, S/ES; Tom Lawrence, S/ES; Cindy	12:35:02
8	Almodovar, S/ES; Jennifer Davis, formerly S; Daniel	12:35:08
9	Fogarty, formerly S; Joseph Macmanus, S/ES; Jonathon	12:35:18
10	Wasser, S/ES; Paul Horowitz, formerly S/ES; Katie	12:35:22
11	Stana, formerly S/ES; MaryKay Carlson, formerly	12:35:31
12	S/ES; Kin Moy, formerly S/ES; Kenneth LaVolpe, S/ES;	12:35:37
13	Daniel Smith, formerly in S/ES; Stephen Mull,	12:35:46
14	formerly in S/ES; Lewis Lukens, formerly in S/ES;	12:35:49
15	through counsel Cheryl Mills, formerly in S; Gene	12:35:57
16	Smilansky, Office of the Legal Advisor; Jonathan	12:36:04
17	Davis, Office of the Legal Advisor; Janice Jacobs,	12:36:06
18	Transparency Coordinator; Michael Kirby, Deputy	12:36:10
19	Transparency Coordinator; reached out to John Bentel	12:36:14
20	through counsel, who declined to speak with State;	12:36:19
21	reached out to Huma Abedin through counsel, but was	12:36:24
22	unable to reach her prior to the deposition.	12:36:26

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1	Q	When did you reach out to Ms. Abedin?	12:36:31
2	A	On Monday.	12:36:37
3	Q	Okay. What did Cheryl Mills tell you?	12:36:39
4	A	Cheryl Mills met with counsel.	12:36:45
5	Q	And then counsel informed you what	12:36:48
6		Ms. Mills said?	12:36:51
7	A	Yes.	12:36:54
8	Q	What did -- what did Ms. Mills tell	12:36:54
9		counsel?	12:36:58
10		MS. WOLVERTON: Objection. Lack of	12:36:58
11		foundation.	12:36:59
12	Q	What -- what did counsel tell you that	12:37:01
13		Ms. Mills told them?	12:37:03
14		MS. WOLVERTON: And could we go off the	12:37:04
15		record for a moment.	12:37:06
16		VIDEO SPECIALIST: We are going off the	12:37:07
17		record. The time is 12:37.	12:37:08
18		(A recess was taken.)	12:37:11
19		VIDEO SPECIALIST: We are back on the	12:38:05
20		record. The time is 12:38.	12:38:09
21		BY MR. BEKESHA:	12:38:12
22	Q	What did -- what did counsel tell you that	12:38:13

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1	Ms. Mills, or Ms. Mills' representatives told them	12:38:16
2	in preparation for today?	12:38:19
3	A Can you be more specific?	12:38:21
4	Q Sure. You mentioned that Ms. Mills was	12:38:22
5	contacted and Ms. Mills or her representative had	12:38:26
6	talked to counsel, talked to your counsel.	12:38:31
7	So I'm wondering what did your -- what did	12:38:35
8	counsel tell you about the conversations they had	12:38:38
9	with Ms. Mills or Ms. Mills' representatives?	12:38:39
10	MS. WOLVERTON: Objection to the extent	12:38:43
11	that implicates attorney-client privileged	12:38:44
12	communications.	12:38:50
13	Maybe you can clarify the question.	12:38:52
14	MR. BEKESHA: Sure.	12:38:53
15	Q Did -- did counsel advise you of what	12:38:54
16	Ms. Mills or Ms. Mills' representative told them?	12:38:58
17	A Yes.	12:39:03
18	Q What did Ms. Mills or her representatives	12:39:03
19	tell them?	12:39:07
20	You may answer the question.	12:39:19
21	A Ms. Mills' representatives answered	12:39:21
22	questions regarding the general policies and	12:39:23

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1 procedures for processing FOIA from her perspective 12:39:27
2 during her time as an employee at the Department of 12:39:31
3 State. 12:39:34

4 Q Okay. Did you speak -- you said you spoke 12:39:34
5 with Mr. Mull, Ambassador Mull, in preparation for 12:39:36
6 today? 12:39:42

7 A I did not speak personally with Ambassador 12:39:44
8 Mull. 12:39:48

9 Q Did counsel speak with Ambassador Mull in 12:39:48
10 preparation for your testimony today? 12:39:51

11 A Yes. 12:39:57

12 Q What did Mr. Mull -- did -- did counsel 12:39:57
13 tell you what Mr. Mull said in preparation for your 12:40:02
14 deposition today? 12:40:06

15 You may answer the question. 12:40:09

16 A Yes. 12:40:16

17 Q And what did counsel tell you that 12:40:17
18 Mr. Mull said? 12:40:19

19 MS. WOLVERTON: I'm going to object at 12:40:20
20 this point to this line of questioning as improperly 12:40:21
21 beyond the scope of the notice 30(b)(6) deposition 12:40:25
22 topic. 12:40:29

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1	You can ask her what information she has,	12:40:29
2	but to go through all of the different people that	12:40:31
3	she spoke with and get the specific facts from each	12:40:34
4	person goes beyond the obligation of the 30(b)(6)	12:40:39
5	witness.	12:40:44
6	Q Did you speak with Mr. Lukens?	12:40:56
7	A No, not personally.	12:40:59
8	Q Did counsel -- do you know if counsel	12:41:01
9	spoke to Mr. Lukens in preparation for your	12:41:03
10	deposition today?	12:41:07
11	A Yes.	12:41:08
12	Q Did counsel tell you what Mr. Lukens told	12:41:09
13	you, or told them?	12:41:11
14	MS. WOLVERTON: Same objection.	12:41:14
15	Instruct the witness not to answer.	12:41:16
16	Q Are you choosing not to answer the	12:41:18
17	question based on counsel's instructions?	12:41:20
18	A Yes.	12:41:22
19	Q Okay. You had a long list of people, and	12:41:23
20	I don't want to go through all of those. Is there	12:41:32
21	one individual that you spoke to more than the	12:41:34
22	others in preparation for your testimony today?	12:41:36

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1	A	No.	12:41:43
2	Q	You testified earlier that you spoke to	12:41:43
3		Mr. Finney for approximately three -- a total of	12:41:45
4		approximately three hours.	12:41:50
5		Does that mean you talked to all of these	12:41:52
6		witnesses for approximately three hours about your	12:41:54
7		testimony today?	12:41:56
8	A	No.	12:41:58
9	Q	Did you speak to anybody more than three	12:41:58
10		hours about your testimony today?	12:42:03
11		MS. WOLVERTON: Objection. This extends	12:42:05
12		beyond the scope of the notice 30(b)(6) deposition	12:42:07
13		topic.	12:42:10
14		I'll instruct the witness not to answer.	12:42:11
15	Q	Are you not answering the question based	12:42:13
16		on advice -- instructions by counsel?	12:42:15
17	A	Yes.	12:42:17
18	Q	Did you speak to anybody more, for a	12:42:17
19		longer period of time, than you spoke to Mr. Finney?	12:42:22
20		MS. WOLVERTON: Same objection.	12:42:26
21	Q	You may answer the question.	12:42:27
22	A	Yes.	12:42:32

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1	Q	Who was that? Who was that individual or	12:42:32
2		individuals?	12:42:36
3		You may answer the question.	12:42:40
4		MS. WOLVERTON: Same objection.	12:42:43
5	Q	You may answer.	12:42:44
6	A	Eric Stein, Jonathon Wasser.	12:42:48
7	Q	Thank you. Who is Mr. Stein?	12:43:10
8	A	He is the acting co-Director of the IPS	12:43:12
9		office.	12:43:16
10	Q	And when did he become acting co-Director?	12:43:17
11	A	I believe in March of this year. March or	12:43:21
12		April of this year.	12:43:25
13	Q	Do you know what his -- was he with the	12:43:26
14		State Department prior to that?	12:43:28
15	A	Yes.	12:43:29
16	Q	Where was -- what was his position?	12:43:29
17	A	He was an advisor to the Deputy Assistant	12:43:33
18		Secretary for A/GIS that supervises the IPS office.	12:43:38
19	Q	Do you know how long he was in that	12:43:42
20		position?	12:43:44
21	A	I do not.	12:43:49
22	Q	Okay. Is Jonathon Wasser still employed	12:43:50

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1	by the State Department?	12:43:56
2	A Yes.	12:43:57
3	Q Is he still within the office -- or I	12:43:57
4	guess it's now the Division of Correspondence and	12:44:01
5	Records?	12:44:03
6	A Within the Executive Secretariat staff,	12:44:04
7	yes.	12:44:06
8	Q Has his position stayed the same since	12:44:06
9	January 2009 to the present?	12:44:13
10	MS. WOLVERTON: Objection. Extends beyond	12:44:16
11	the scope of the notice 30(b)(6) deposition topic.	12:44:17
12	MR. BEKESHA: Okay.	12:44:26
13	Q What did -- what did Mr. Wasser tell you	12:44:26
14	in preparation for today?	12:44:31
15	MS. WOLVERTON: Objection. Extends beyond	12:44:32
16	the scope of the notice 30(b)(6) deposition topic.	12:44:34
17	Q You may answer the question.	12:44:38
18	A The topic of the deposition is State	12:44:41
19	Department practice for processing FOIA requests.	12:44:46
20	Q But what -- what specifically did he tell	12:44:48
21	you?	12:44:51
22	MS. WOLVERTON: Same objection.	12:44:52

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1	Q	You may answer the question.	12:44:53
2	A	About his -- his practice of processing	12:44:55
3		FOIA requests.	12:44:57
4	Q	Did Mr. Wasser talk to you about	12:44:58
5		Mrs. Clinton's use of a non-State.gov e-mail	12:45:02
6		account?	12:45:06
7		MS. WOLVERTON: Same objection.	12:45:06
8	Q	You may answer the question.	12:45:08
9	A	Can you be more specific?	12:45:09
10	Q	Sure. Did you and Mr. Wasser discuss	12:45:10
11		Mrs. Clinton's use of a non-State.gov e-mail	12:45:13
12		account?	12:45:16
13	A	Yes.	12:45:17
14	Q	What did he tell you?	12:45:17
15	A	This -- that non-State.gov e-mail account,	12:45:23
16		which is now, as you know, available online for	12:45:26
17		review by the public, searching that account in	12:45:31
18		response to FOIA requests actually forms a	12:45:35
19		significant part of Mr. Wasser's job.	12:45:37
20	Q	Did Mr. Wasser inform you of when he	12:45:41
21		learned about Mrs. Clinton's non-State.gov e-mail	12:45:44
22		account?	12:45:47

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1 MS. WOLVERTON: Objection. Extends beyond 12:45:47
2 the scope of the notice 30(b)(6) deposition topic. 12:45:49

3 I'm happy to have the witness, 12:45:53
4 nevertheless, in the spirit of cooperation, answer a 12:45:57
5 few questions to give you a context. But it's 12:46:00
6 really not appropriate to go much further than that. 12:46:03

7 MR. BEKESHA: Sure. 12:46:06

8 Q You can answer the question. 12:46:07

9 A He became aware of the possibly responsive 12:46:11
10 documents contained in non-State.gov e-mail when 12:46:17
11 Mrs. Clinton, former Secretary Clinton, returned 12:46:20
12 those documents, turned those documents over to the 12:46:24
13 State Department in December of 2014. 12:46:26

14 Q Did Mr. Wasser inform you whether he knew 12:46:29
15 of Mrs. Clinton's non-State.gov e-mail account prior 12:46:32
16 to December 2014? 12:46:36

17 MS. WOLVERTON: Same objection. 12:46:39

18 Q You may answer the question. 12:46:40

19 A Can you repeat the question? 12:46:42

20 MR. BEKESHA: Could the court reporter 12:46:43
21 repeat the question, please. 12:46:44

22 (Pending question read.) 12:46:54

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1	A	Yes.	12:46:59
2	Q	And when did he -- when did he say what --	12:46:59
3		when he learned of her non-State.gov e-mail account?	12:47:00
4	MS. WOLVERTON:	Same objection.	12:47:04
5	Q	You may answer the question.	12:47:04
6	A	I think you're mischaracterizing my answer	12:47:06
7		to the previous question.	12:47:08
8	Q	Could you repeat -- Mr. Wasser informed	12:47:17
9		you that he knew of Mrs. Clinton's non-State.gov	12:47:18
10		e-mail account prior to December 2014?	12:47:22
11	A	No.	12:47:25
12	Q	Okay.	12:47:25
13		You also said that you talked -- that --	12:47:30
14		did you reach out to Mr. Bentel?	12:47:36
15	MS. WOLVERTON:	Objection. Asked and	12:47:40
16		answered. Also extends beyond the scope of the	12:47:41
17		30(b)(6) deposition topic --	12:47:44
18	Q	You may answer the question.	12:47:46
19	MS. WOLVERTON:	-- as noticed.	12:47:48
20	Q	You may answer the question.	12:47:51
21	A	Counsel did.	12:47:52
22	MS. WOLVERTON:	Could we go off the	12:47:53

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1	record?	12:47:54
2	MR. BEKESHA: Sure.	12:47:55
3	VIDEO SPECIALIST: We are going off the	12:47:55
4	record. The time is 12:47.	12:47:57
5	(A recess was taken.)	12:47:59
6	VIDEO SPECIALIST: We are back on the	13:09:14
7	record. The time is 1:09.	13:09:15
8	MR. BEKESHA: Great. Thank you.	13:09:17
9	Q What did Mr. Wasser tell you about his	13:09:19
10	knowledge about the Clinton e-mail, the e-mail	13:09:21
11	address that Mrs. Clinton used to conduct official	13:09:24
12	government business?	13:09:28
13	A Can you be more specific?	13:09:29
14	Q Sure. During your preparations you said	13:09:30
15	you talked with Mr. Wasser. During those	13:09:33
16	discussions, what -- what did he tell you about his	13:09:35
17	knowledge of Mrs. Clinton's non-State.gov e-mail	13:09:40
18	account that she used for government business?	13:09:44
19	A I don't recall specific discussions about	13:09:50
20	his knowledge of that.	13:09:52
21	Q Okay. I just want to clarify the list	13:09:54
22	that you read off before.	13:09:58

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1	Of those, of the list, who did you not	13:10:01
2	directly speak with?	13:10:05
3	A You mean who did counsel speak with	13:10:08
4	instead of me personally?	13:10:09
5	Q Yes. That's correct.	13:10:11
6	A Would you like me to read their names?	13:10:14
7	Q Yes, please.	13:10:15
8	A Okay. John Hackett, Margaret Grafeld,	13:10:16
9	Patrick Kennedy, Stephen Mull, Lewis Lukens, Cheryl	13:10:29
10	Mills, and the two at the end that counsel reached	13:10:43
11	out to but were not able to connect with.	13:10:51
12	Q Okay. Thank you.	13:10:54
13	Did counsel provide you with notes or	13:11:00
14	binders or materials based on their conversations	13:11:02
15	with these individuals?	13:11:04
16	A No.	13:11:06
17	Q You just had discussions with counsel	13:11:07
18	about what those individuals had told them?	13:11:10
19	A Correct.	13:11:14
20	Q Okay. With respect to Mr. Finney, in	13:11:14
21	preparation for today did you and Mr. Finney talk	13:11:22
22	about his knowledge about Mrs. Clinton's use of a	13:11:25

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1	non-State.gov e-mail account to conduct official	13:11:31
2	government business?	13:11:34
3	A Yes.	13:11:36
4	Q Did Mr. Finney -- what did Mr. Finney tell	13:11:36
5	you about his knowledge?	13:11:40
6	MS. WOLVERTON: Objection. Asked and	13:11:43
7	answered.	13:11:43
8	Q You may answer the question.	13:11:44
9	A Can you be more specific?	13:11:46
10	Q Sure. During -- during your conversations	13:11:47
11	with Mr. Finney in preparation for today, you said	13:11:49
12	that you discussed with Mr. Finney his knowledge	13:11:53
13	about the Clinton -- Mrs. Clinton's use of a	13:11:58
14	non-State.gov e-mail account to conduct official	13:12:01
15	government business.	13:12:02
16	What did he tell you?	13:12:03
17	MS. WOLVERTON: Same objection.	13:12:05
18	Q You may answer the question.	13:12:06
19	A Clarence Finney told me that he was not	13:12:09
20	aware of former Secretary Clinton's use of a	13:12:10
21	non-State.gov e-mail account to conduct government	13:12:16
22	business throughout her tenure, nor for quite some	13:12:18

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1	time after her tenure.	13:12:22
2	Q What words did he use to tell you that?	13:12:23
3	MS. WOLVERTON: Objection. Vague.	13:12:29
4	Q You may answer the question.	13:12:32
5	A I don't recall his specific words.	13:12:34
6	Q Okay. Besides the binder that was	13:12:35
7	introduced as Exhibit 2, what else -- what other	13:12:43
8	documents did you review in preparation for today?	13:12:47
9	MS. WOLVERTON: Objection. Asked and	13:12:50
10	answered.	13:12:51
11	Q You may answer the question.	13:12:52
12	A Specific to this FOIA request, we reviewed	13:12:56
13	a number of the e-mail communications for people	13:13:01
14	involved in processing this FOIA request.	13:13:04
15	Q What about for issues not specifically	13:13:06
16	about this FOIA request? Did you review any records	13:13:12
17	in preparation for today?	13:13:15
18	A Yes.	13:13:17
19	Q What were those records?	13:13:17
20	A They included e-mail records of people	13:13:20
21	relevant to this topic.	13:13:24
22	Q What do you mean by that?	13:13:26

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1	A	For example, some of the people who appear	13:13:31
2		on this list, in addition to meeting with them, we	13:13:33
3		reviewed their e-mail records on this topic.	13:13:37
4	Q	Do you recall whose e-mail records you	13:13:42
5		reviewed?	13:13:44
6	A	I believe mostly, yes.	13:13:53
7	Q	Who were those individuals? Most of the	13:13:56
8		people on the list, or you recall mostly --	13:13:59
9	A	I recall -- no, not most of the people on	13:14:03
10		the list. Certain people on the list.	13:14:05
11	Q	Okay. Who were those individuals?	13:14:07
12	A	Clarence Finney, Jennifer Davis, Daniel	13:14:18
13		Fogarty, Joseph Macmanus, Stephen Mull, Cheryl	13:14:23
14		Mills, Huma Abedin.	13:14:43
15	Q	And how did you get those e-mails that you	13:14:47
16		reviewed? Did you ask these individuals directly	13:14:50
17		for their e-mail records?	13:14:52
18	A	No.	13:14:56
19	Q	How did you get them?	13:14:57
20	A	Through the State Department, S/ES-IRM.	13:15:00
21	Q	Who -- who specifically provided you with	13:15:06
22		those e-mails?	13:15:07

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1	MS. WOLVERTON: Objection. Beyond the	13:15:08
2	scope of the obligation of the 30(b)(6) deponent.	13:15:09
3	Q You may answer the question.	13:15:13
4	MS. WOLVERTON: Instruct not to answer on	13:15:15
5	that.	13:15:16
6	Q For these e-mail records that you	13:15:22
7	reviewed, what was the general time -- time period	13:15:25
8	of these records?	13:15:27
9	MS. WOLVERTON: Objection. Overly broad.	13:15:28
10	Q What was the time period of Mr. Finney's	13:15:30
11	records, e-mail records that you reviewed in	13:15:32
12	preparation for today?	13:15:34
13	A Approximately 2011 to the present.	13:15:42
14	Q And approximately how many e-mail records	13:15:47
15	did you review of his -- sorry. How many of his	13:15:49
16	e-mail records did you review?	13:15:52
17	A I'm sorry. I'm not able -- I can't recall	13:15:55
18	that number.	13:15:57
19	Q Do you know if they were a handful or	13:15:58
20	hundreds of them?	13:16:00
21	A Many of them, because his position is very	13:16:04
22	closely related to this topic.	13:16:08

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1	Q	In those e-mails from 2011 to 2013, did	13:16:11
2		any of them refer to a personal e-mail address being	13:16:17
3		used by Mrs. Clinton or Ms. Abedin to conduct	13:16:21
4		official government business?	13:16:25
5	A	No.	13:16:26
6	Q	Do you know how many records of Joseph	13:16:26
7		Macmanus you reviewed?	13:16:40
8		MS. WOLVERTON: Objection. Vague. Lack	13:16:45
9		of foundation.	13:16:48
10	Q	You mentioned that you reviewed e-mail	13:16:50
11		records of Mr. Macmanus in preparation for today?	13:16:52
12	A	Yes.	13:16:56
13	Q	How many record -- how many e-mail records	13:16:56
14		of his did you review for today?	13:16:59
15	A	Not very many.	13:17:02
16	Q	Do you recall the time period of those	13:17:03
17		e-mail records?	13:17:06
18	A	Yes.	13:17:08
19	Q	What was that?	13:17:08
20	A	The time period was when he was executive	13:17:10
21		assistant to Secretary Clinton.	13:17:14
22	Q	And what time period? Do you recall that	13:17:16

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1	time period? Was it for her whole tenure or other	13:17:19
2	tenures -- or, sorry, or just part of her tenure?	13:17:21
3	A 2009 to 2011.	13:17:26
4	Q In any of those e-mail records that you	13:17:28
5	reviewed, did they identify -- did they contain the	13:17:31
6	e-mail address HDR22@Clintonemail.com?	13:17:35
7	A No.	13:17:39
8	Q Did any of those records discuss	13:17:39
9	Mrs. Clinton's use of a non-State.gov e-mail account	13:17:41
10	to conduct official government business?	13:17:45
11	A No.	13:17:47
12	Q Did you speak with Mr. Macmanus personally	13:17:47
13	in preparation for today?	13:17:50
14	A Yes.	13:17:51
15	Q Did Mr. -- did you and Mr. Macmanus	13:17:51
16	discuss his knowledge about Mrs. Clinton's use of a	13:17:55
17	non-State.gov e-mail account to conduct official	13:17:58
18	government business?	13:18:01
19	A No. We discussed the processing of FOIA	13:18:03
20	requests.	13:18:05
21	Q When did -- when did -- when did IPS -- I	13:18:07
22	forgot the initials. When did IPS become aware of	13:18:26

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1	Mrs. Clinton's use of a non-State.gov e-mail account	13:18:32
2	to conduct official government business?	13:18:36
3	MS. WOLVERTON: Objection. Beyond the	13:18:38
4	scope of the 30(b)(6) topic noticed.	13:18:40
5	I'll instruct the witness not to answer	13:18:44
6	that question.	13:18:46
7	Q In the course of processing FOIA requests,	13:18:49
8	did -- that implicated Ms. Clinton's or Ms. Abedin's	13:18:52
9	e-mails, did IPS ever learn or become aware of	13:18:56
10	Mrs. Clinton's use of a non-State.gov e-mail account	13:19:00
11	to conduct official government business?	13:19:03
12	A Do you have a time frame for that	13:19:08
13	question?	13:19:10
14	Q We can break it down. How about between	13:19:10
15	January 2009 and February 2013.	13:19:12
16	A Can you ask the question again?	13:19:16
17	MR. BEKESHA: Could you repeat the	13:19:18
18	question, please.	13:19:19
19	(Pending question read.)	13:19:51
20	MS. WOLVERTON: Objection. Vague.	13:19:51
21	Q You may answer the question.	13:19:51
22	A IPS is an office of three to four hundred	13:19:51

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1	people processing tens of thousands of FOIA requests	13:19:52
2	per year. I don't think there is a way to answer	13:19:54
3	that question definitively without speaking to all	13:20:00
4	the current and former employees of IPS, which would	13:20:05
5	be a very burdensome undertaking.	13:20:08
6	Q What if we narrow my question to	13:20:12
7	senior-level officials within IPS; does that -- is	13:20:17
8	it easier to answer my question now?	13:20:21
9	A What is the time frame for your question?	13:20:27
10	Q During Mrs. Clinton's tenure.	13:20:30
11	A To the best of my knowledge, no, they were	13:20:39
12	not aware of use of such an e-mail account during	13:20:40
13	her tenure.	13:20:43
14	Q Do you know who would have -- who may know	13:20:43
15	the answer to that question?	13:20:47
16	A The Director of IPS from late in 2011	13:20:51
17	until early 2014 was Sheryl Walter.	13:20:58
18	Q Between February 2013 and March 2015, do	13:21:05
19	you know if senior-level officials within IPS, in	13:21:09
20	the course of processing FOIA requests that may	13:21:14
21	implicate Mrs. Clinton and Ms. Abedin's e-mails,	13:21:16
22	were aware of Mrs. Clinton's use of a non-State.gov	13:21:19

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1	e-mail account to conduct official government	13:21:23
2	business?	13:21:25
3	A Yes.	13:21:26
4	Q And when did they become aware of that	13:21:26
5	information?	13:21:29
6	A Department officials with responsibilities	13:21:33
7	for federal recordkeeping began -- became aware and	13:21:34
8	began to make inquiries about the use of	13:21:38
9	non-State.gov e-mail to conduct government business	13:21:43
10	over the summer of 2014.	13:21:46
11	Q And how did they become aware of that?	13:21:50
12	What happened in the summer of 2014 to make them	13:21:53
13	aware of that?	13:21:55
14	A During the course of reviewing document	13:21:59
15	requests, people in the -- they became aware of	13:22:03
16	these e-mails, these e-mail addresses.	13:22:07
17	Q Do you know who those people were?	13:22:09
18	A Not specifically.	13:22:13
19	Q Okay. I'm going to ask the same questions	13:22:14
20	about Mrs. -- Ms. Abedin's use of non-State.gov	13:22:21
21	e-mail account.	13:22:26
22	So first, with the caveats I stated	13:22:26

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1	before, for the time period between January 2009 and	13:22:29
2	February 2013, was any senior-level officials	13:22:34
3	with -- within IPS aware of Mrs. -- Ms. Abedin's use	13:22:38
4	of a non-State.gov e-mail account to conduct	13:22:41
5	official government business?	13:22:45
6	A No, I don't believe so.	13:22:46
7	Q And what about the time period between	13:22:47
8	February 2013 and March 2015?	13:22:50
9	A Ms. Abedin had a State.gov e-mail address	13:23:00
10	and conducted government business on that address.	13:23:04
11	The awareness that there may be records	13:23:10
12	outside of State.gov I believe emerged from a review	13:23:12
13	of Secretary Clinton's e-mails.	13:23:18
14	Q Do you know if anybody within IPS asked	13:23:26
15	Ms. Abedin between January 2009 and February of 2013	13:23:30
16	whether she was using a non-State.gov e-mail account	13:23:42
17	to conduct official government business along with	13:23:46
18	her use of a State.gov e-mail account?	13:23:49
19	A No.	13:23:52
20	MS. WOLVERTON: Objection. Overly broad.	13:23:53
21	Q You may answer the question.	13:23:55
22	A No.	13:23:56

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1	Q Do you know during -- during -- while	13:23:57
2	Mrs. Clinton was in office, do you know if the	13:24:10
3	Office of Legal Advisor was aware of Mrs. Clinton's	13:24:12
4	use of a non-State.gov e-mail address to conduct	13:24:17
5	official government business?	13:24:21
6	MS. WOLVERTON: Objection. Extends beyond	13:24:24
7	the scope of the notice 30(b)(6) deposition topic.	13:24:26
8	I'll instruct the witness not to answer.	13:24:28
9	Q In the office -- in the capacity of -- you	13:24:30
10	testified earlier that the Office of Legal Advisor	13:24:34
11	would be involved in FOIA -- in the processing of	13:24:36
12	FOIA requests that were in litigation.	13:24:39
13	During that process between -- while	13:24:43
14	Mrs. Clinton was in office, was the Office of Legal	13:24:45
15	Advisor aware that Mrs. Clinton was using a	13:24:49
16	non-State.gov e-mail account to conduct official	13:24:52
17	government business?	13:24:56
18	MS. WOLVERTON: Objection. Calls for	13:24:56
19	privileged attorney-client communications, as well	13:24:58
20	as attorney work product protected information.	13:25:01
21	And on that basis, I'll instruct the	13:25:03
22	witness not to answer.	13:25:05

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1	Q	Are you not answering the question based	13:25:07
2		on instructions from counsel?	13:25:09
3	A	Yes.	13:25:11
4	MR. BEKESHA:	Can we take a short,	13:25:19
5		90-second break?	13:25:21
6	MS. WOLVERTON:	Okay.	13:25:22
7	VIDEO SPECIALIST:	We are going off the	13:25:22
8		record. The time is 1:25.	13:25:23
9		(A recess was taken.)	13:25:30
10	VIDEO SPECIALIST:	We are back on the	13:56:33
11		record. The time is 1:56.	13:56:44
12	MR. BEKESHA:	Great. Thank you.	13:56:47
13	BY MR. BEKESHA:		13:56:48
14	Q	Before we start -- I just have a few more	13:56:49
15		questions. But can we mark the list of people	13:56:51
16		discussed as Exhibit 3.	13:56:54
17	MS. WOLVERTON:	You can hand that to the	13:56:57
18		court reporter, please.	13:56:58
19		(Deposition Exhibit 3 marked for	13:57:08
20		identification and is attached to the transcript.)	13:57:24
21	Q	Thank you. And just to be clear for the	13:57:24
22		record, the list -- the exhibit that was just marked	13:57:24

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1 as Exhibit 3, is that the list you read from 13:57:24
2 earlier? 13:57:24

3 A Yes. 13:57:24

4 Q Thank you. How did you create that list? 13:57:24

5 A You mean, how did we decide who to talk 13:57:27
6 to? 13:57:27

7 Q Yes. 13:57:27

8 A In discussions with counsel and colleagues 13:57:28
9 in the department, we considered who would be 13:57:32
10 knowledgeable on the topic of this deposition. 13:57:38

11 Q Okay. In the course of representing the 13:57:41
12 State Department in FOIA litigation that may have 13:57:45
13 implicated Mrs. Clinton, Ms. Abedin's e-mails, when 13:57:48
14 did the State Department inform the Department of 13:57:51
15 Justice that Mrs. Clinton used a non-State.gov 13:57:54
16 e-mail account to conduct official government 13:57:57
17 business? 13:57:59

18 MS. WOLVERTON: Objection. Extends beyond 13:58:00
19 the scope of the notice 30(b)(6) deposition topic. 13:58:01
20 Also implicates attorney-client privileged 13:58:05
21 communications and attorney work product. 13:58:08

22 On those grounds, I'll instruct the 13:58:10

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1 witness not to answer. 13:58:12

2 MR. BEKESHA: The question was when the 13:58:14

3 State Department as the client informed the 13:58:16

4 attorney, not about the attorney's mental 13:58:18

5 impressions or discussions that the attorney had 13:58:21

6 with the State Department. 13:58:23

7 MS. WOLVERTON: Still attorney-client 13:58:24

8 communications. On that ground, I will invoke the 13:58:26

9 privilege and instruct the witness not to answer. 13:58:29

10 Q Are you choosing not to -- 13:58:31

11 MS. WOLVERTON: And also for the 13:58:33

12 additional objections, it's beyond the scope of the 13:58:34

13 noticed topic for 30(b)(6) deposition and implicates 13:58:37

14 attorney work product. 13:58:41

15 MR. BEKESHA: Okay. 13:58:43

16 Q Are you not answering the question based 13:58:44

17 on instructions of counsel? 13:58:46

18 A Yes. 13:58:48

19 Q And I'm going to ask the same question for 13:58:48

20 when the State Department informed the Department of 13:58:52

21 Justice about Ms. Abedin's use of a non-State.gov 13:58:55

22 e-mail account to conduct official government 13:58:59

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1	business.	13:59:00
2	MS. WOLVERTON: And I'll object on the	13:59:01
3	same grounds, specifically that the question exceeds	13:59:02
4	the scope of the notice 30(b)(6) deposition topic,	13:59:05
5	calls for attorney-client communications which are	13:59:09
6	privileged, as well as protected work -- attorney	13:59:14
7	work product.	13:59:17
8	And on those grounds I will instruct the	13:59:17
9	witness not to answer.	13:59:20
10	Q And are you not answering the question	13:59:21
11	because -- based on instructions of your attorney?	13:59:24
12	A Yes.	13:59:26
13	Q Okay. Does the State Department know if	13:59:26
14	Mrs. Clinton and Ms. Abedin has returned all	13:59:28
15	potentially responsive records that are potentially	13:59:30
16	responsive to the FOIA request at issue in this	13:59:36
17	case?	13:59:40
18	A Can you repeat the question?	13:59:40
19	Q Sure. Does the State Department know if	13:59:42
20	Mrs. Clinton and Ms. Abedin has returned to the	13:59:44
21	State Department all records that may be potentially	13:59:47
22	responsive to the FOIA request at issue in this	13:59:50

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1	case?	13:59:52
2	A The State Department's only basis for --	13:59:54
3	for judging whether or not they've returned all	13:59:58
4	potentially responsive records would be their	14:00:00
5	statements on that subject.	14:00:03
6	Q And has Mrs. Clinton told the Department	14:00:05
7	of State that she has returned all potentially	14:00:09
8	responsive records -- sorry, all records that are	14:00:10
9	potentially responsive to the FOIA request at issue	14:00:14
10	in this case?	14:00:17
11	A I believe Mrs. -- former Secretary Clinton	14:00:21
12	has told the State Department that she's returned	14:00:24
13	all official -- government business records that she	14:00:27
14	had in her possession and control to return.	14:00:33
15	Q Has the State Department specifically	14:00:37
16	asked Mrs. Clinton to return any records that are	14:00:39
17	potentially responsive to the FOIA request at issue	14:00:42
18	in this case?	14:00:45
19	A No.	14:00:49
20	Q Has the State Department -- does the State	14:00:50
21	Department know if Ms. Abedin has turned over all	14:00:52
22	records that are potentially responsive to the FOIA	14:00:55

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1	requests that are at issue in this case?	14:01:00
2	A Again, the State Department's basis for	14:01:02
3	knowing that would be Ms. Abedin's statements	14:01:07
4	regarding the records that she's turned over.	14:01:10
5	Q Has the State Department asked Ms. Abedin	14:01:12
6	if she has turned over all records potentially	14:01:14
7	responsive to the FOIA request at issue in this	14:01:18
8	case?	14:01:21
9	A Has the State Department specifically	14:01:21
10	asked that?	14:01:23
11	Q Yes.	14:01:24
12	A Not to my knowledge.	14:01:27
13	Q Okay.	14:01:28
14	MR. BEKESHA: We have no further	14:01:28
15	questions.	14:01:30
16	MS. WOLVERTON: Can we take a short break?	14:01:32
17	Promise it will be short.	14:01:34
18	VIDEO SPECIALIST: We are going off the	14:01:36
19	record. The time is 2:01.	14:01:37
20	(A recess was taken.)	14:01:40
21	VIDEO SPECIALIST: We are back on the	14:10:28
22	record. The time is 2:10.	14:10:35

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1	EXAMINATION BY COUNSEL FOR DEFENDANT	14:10:39
2	BY MS. WOLVERTON:	14:10:39
3	Q Okay. Ms. Lang, I'll ask the court	14:10:40
4	reporter if she could read back the second to the	14:10:41
5	last question that you were asked on direct, please.	14:10:45
6	(The reporter read the record as follows:	14:11:07
7	"Has the State Department asked Ms. Abedin if she	14:11:07
8	has turned over all records potentially responsive	14:11:07
9	to the FOIA request at issue in this case?")	14:11:10
10	Q And, Ms. Lang, would you like to add to or	14:11:10
11	make any modifications to the answer that you gave	14:11:10
12	on direct?	14:11:13
13	A Yes.	14:11:14
14	Q Please do.	14:11:16
15	A In -- can I introduce an exhibit?	14:11:19
16	Q Yes.	14:11:21
17	MS. WOLVERTON: Let's mark this as Exhibit	14:11:21
18	4, please.	14:11:23
19	(Deposition Exhibit 4 marked for	14:11:35
20	identification and is attached to the transcript.)	14:11:36
21	Q And can you identify what this document	14:11:36
22	is?	14:11:38

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1 A Yes. This is the defendant's status 14:11:39
2 report in this case that was filed on August 7, 14:11:42
3 2015. 14:11:45

4 Q So it was filed in this case. 14:11:47

5 MS. WOLVERTON: For your information. 14:11:49

6 MR. BEKESHA: Okay. 14:11:50

7 A The referenced document contains a letter 14:12:00
8 from the State Department to Ms. Abedin's legal 14:12:02
9 counsel, dated August 5th, 2015, asking her to -- 14:12:06
10 to -- specifically asking her for documents 14:12:16
11 responsive to this case. 14:12:18

12 MS. WOLVERTON: And could I ask the court 14:12:23
13 reporter to read back the last question on direct 14:12:25
14 and the answer. 14:12:32

15 (The reporter read the record as follows: 14:13:06

16 "QUESTION: Has the State Department asked
17 Ms. Abedin if she has turned over all records
18 potentially responsive to the FOIA request at issue
19 in this case?

20 "ANSWER: Has the State Department
21 specifically asked that?

22 "QUESTION: Yes.

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1 "ANSWER: Not to my knowledge.") 14:13:09

2 Q And, Ms. Lang, do you have anything 14:13:09

3 further to say in response to that question? 14:13:11

4 Do you have anything further after she 14:13:21

5 read both of those questions? 14:13:22

6 A As I just noted, the -- the letter dated 14:13:25

7 August 5th, 2015, from the State Department was 14:13:29

8 directed to Ms. Abedin's counsel to ask this 14:13:32

9 question, ask that she turn over any documents 14:13:36

10 responsive to this case. 14:13:39

11 A separate letter, also dated August 5th, 14:13:43

12 2015, was directed to former Secretary Clinton's 14:13:46

13 counsel, asking her specifically again to turn over 14:13:50

14 any documents related to this case, responsive to 14:13:56

15 this case. 14:14:00

16 MS. WOLVERTON: And can I ask the court 14:14:02

17 reporter to read the fourth to the last question on 14:14:03

18 the direct exam. Maybe the third and fourth. 14:14:09

19 (The reporter read the record as follows: 14:14:52

20 QUESTION: Has the State Department

21 specifically asked Mrs. Clinton to return any

22 records that are potentially responsive to the FOIA

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1 request at issue in this case?

2 "ANSWER: No.

3 "QUESTION: Has the State Department --
4 does the State Department know if Ms. Abedin has
5 turned over all records that are potentially
6 responsive to the FOIA requests that are at issue in
7 this case?")

14:14:54

8 Q With respect to the first question that
9 the court reporter just asked -- or read back as to
10 Mrs. Clinton, and you answered no to that question,
11 do you now wish to add to or modify that answer?

14:14:54

14:14:55

14:15:00

14:15:04

12 A Yes.

14:15:08

13 Q Could you please do so.

14:15:08

14 A As noted in the court filing, the
15 defendant's status report filed on August 7th, 2015,
16 one of the letters attached dated August 5th, 2015,
17 is a letter to former Secretary Clinton's counsel
18 asking that she turn over any documents potentially
19 responsive to this FOIA case.

14:15:11

14:15:16

14:15:21

14:15:25

14:15:30

14:15:33

20 Q Thank you.

14:15:39

21 A Or -- can -- I'm sorry. Can I add to
22 that?

14:15:44

14:15:46

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1	Q	Go ahead. Yes.	14:15:47
2	A	Or if she had, in fact, already turned	14:15:48
3		them over to -- to confirm under penalty of perjury	14:15:49
4		that she had done so.	14:15:53
5	Q	Thank you. And, Ms. Lang, you were also	14:15:55
6		asked on direct whether anyone who worked for	14:16:00
7		Mr. Clarence Finney asked S/ES-IRM about whether	14:16:06
8		former Secretary Clinton used e-mail, whether	14:16:12
9		anybody asked that question when Ms. Clinton was in	14:16:16
10		office.	14:16:20
11		And do you have any further information in	14:16:23
12		response to that question as you sit here now?	14:16:25
13	A	Yes.	14:16:27
14	Q	Could you please tell us.	14:16:28
15	A	I spoke to Clarence Finney on the break,	14:16:31
16		and he advised that he did not believe anyone who	14:16:34
17		worked for him had conversations about that topic	14:16:39
18		with S/ES-IRM during that time period.	14:16:44
19	Q	And did Mr. Finney also provide any	14:16:48
20		information as to whether anyone who worked for him	14:16:54
21		asked him whether former Secretary Clinton used	14:17:00
22		e-mail during the time of her tenure?	14:17:04

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1	A	Yes. He provided information on this.	14:17:08
2	Q	And what information did he provide?	14:17:11
3	A	He advised that they did not.	14:17:13
4	Q	Also on the direct examination, Ms. Lang,	14:17:21
5		you were asked about, when the FOIA request in this	14:17:24
6		case, at issue in this case, was reopened in March	14:17:29
7		of 2015, who decided to task the Under Secretary of	14:17:32
8		Management with a search.	14:17:38
9		Do you recall that question?	14:17:39
10	A	Yes.	14:17:40
11	Q	And would you like to provide any further	14:17:41
12		information in answer to it now?	14:17:44
13	A	Yes.	14:17:46
14	Q	Please do.	14:17:47
15	A	Based on a conversation just now with	14:17:52
16		Susan Weetman and Julia Navarro from IPS, Appeals	14:17:54
17		and Litigation branch, the decision to task the	14:17:58
18		Under Secretary for Management's office for	14:18:02
19		additional possible responsive records was made by	14:18:03
20		Susan Weetman, then the branch chief of Appeals and	14:18:09
21		Litigation, upon the advice of the Office of the	14:18:13
22		Legal Advisor, based on a review of documents that	14:18:18

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1	had already been produced in the case.	14:18:20
2	MS. WOLVERTON: Thank you. No further	14:18:25
3	questions.	14:18:27
4	MR. BEKESHA: I just have I think very few	14:18:28
5	questions.	14:18:31
6	EXAMINATION BY COUNSEL FOR PLAINTIFF	14:18:32
7	BY MR. BEKESHA:	14:18:32
8	Q You just testified about the August 5th,	14:18:33
9	2015, letters that were sent to Ms. Abedin and to	14:18:36
10	Mrs. Clinton, or representatives of them.	14:18:40
11	Did the State Department receive responses	14:18:43
12	to those letters?	14:18:46
13	A Yes.	14:18:48
14	Q In those responses did Mrs. Clinton inform	14:18:48
15	the State Department that she has turned over all	14:18:52
16	records potentially responsive to plaintiff's FOIA	14:18:57
17	request?	14:19:01
18	A Yes.	14:19:16
19	Q What was marked as -- what exhibit was	14:19:16
20	that marked as? I'm sorry.	14:19:24
21	A Exhibit 4.	14:19:28
22	Q That was Exhibit 4?	14:19:28

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1	What was marked as Exhibit 4 is the August	14:19:30
2	14, 2015, declaration of John Hackett.	14:19:32
3	Is that correct?	14:19:35
4	A Yes.	14:19:37
5	I'm sorry, I don't think the declaration	14:19:38
6	from Secretary Clinton is contained in this packet.	14:19:39
7	Q Okay. If you can look at Paragraph 14 of	14:19:42
8	Mr. Hackett's declaration. It states, "By letter	14:19:47
9	dated August" --	14:19:50
10	MS. WOLVERTON: Wait. Hold on a second.	14:19:51
11	Which?	14:19:53
12	A I'm sorry.	14:19:54
13	MS. WOLVERTON: Which declaration?	14:19:55
14	Q Exhibit 4. Isn't that what was --	14:19:56
15	MS. WOLVERTON: That's a status report,	14:19:58
16	Exhibit 4. I'm sorry. Would you like to take a	14:20:00
17	look at it?	14:20:01
18	MR. BEKESHA: Wasn't the declaration	14:20:02
19	attached to that?	14:20:03
20	MS. BERMAN: Not in that one.	14:20:06
21	MR. BEKESHA: Oh. Yeah, this was the	14:20:07
22	earlier. Okay.	14:20:29

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1	BY MR. BEKESHA:	14:20:37
2	Q When did Mrs. Clinton or Mrs. Clinton's	14:20:37
3	attorney respond to the August 5th letter that you	14:20:40
4	discussed, testified to shortly?	14:20:43
5	MS. WOLVERTON: I will note that that has	14:20:46
6	been filed in the case and is a matter of the	14:20:48
7	record.	14:20:52
8	MR. BEKESHA: Okay.	14:20:52
9	Q In -- on August 14, 2015, Mr. Hackett	14:20:54
10	filed a declaration in this case that stated, "By	14:20:59
11	letter dated August 12th, 2015, former Secretary	14:21:02
12	Clinton's attorney informed the department that he	14:21:06
13	provided to the Department of Justice on August 6,	14:21:09
14	2015, the PST file containing electronic copies of	14:21:13
15	the 55,000 pages of e-mails on a thumb drive along	14:21:17
16	with two copies."	14:21:21
17	MS. WOLVERTON: Can I ask where you're	14:21:24
18	reading?	14:21:25
19	MS. BERMAN: That might be in her binder.	14:21:26
20	MR. BEKESHA: Sure.	14:21:28
21	A Page 6 of --	14:21:29
22	MR. BEKESHA: Page 6, Paragraph 14 of John	14:21:31

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1	Hackett's declaration of August 14th, 2015. It's	14:21:33
2	Document Number 26-1. This is the ECF document	14:21:37
3	number.	14:21:43
4	MS. BERMAN: I'm sorry. So which	14:21:45
5	paragraph? Can you just --	14:21:46
6	MR. BEKESHA: Sure. Paragraph 14.	14:21:48
7	THE WITNESS: That's 3B.	14:21:50
8	MS. WOLVERTON: Thank you. Sorry. Sorry.	14:21:52
9	MR. BEKESHA: I was just going to identify	14:21:56
10	for the record which tab, where it is in Exhibit 2.	14:21:58
11	BY MR. BEKESHA:	14:22:01
12	Q Could you identify where this letter is in	14:22:01
13	Exhibit 2?	14:22:04
14	A 3B.	14:22:05
15	Q Okay.	14:22:07
16	MS. WOLVERTON: I'm going to object to the	14:22:16
17	line of questioning about this paragraph, based on	14:22:18
18	the order entered on May 4th that specifically	14:22:22
19	excludes from discovery information that concerns	14:22:27
20	pending FBI or law-enforcement investigations, and	14:22:35
21	on that basis instruct the witness not to answer	14:22:38
22	questions about that paragraph.	14:22:43

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1	MR. BEKESHA: Okay.	14:22:46
2	Q When did Mrs. Clinton or her	14:22:46
3	representatives respond to the August 5th, 2015,	14:22:48
4	letter?	14:22:52
5	MS. WOLVERTON: Again, that's been filed	14:22:59
6	in the case. Do you have -- do you happen to have	14:23:00
7	the declaration with you to facilitate the answer to	14:23:03
8	that?	14:23:06
9	MR. BEKESHA: I don't know. I don't know	14:23:06
10	if it is in the record in the case.	14:23:07
11	MS. WOLVERTON: The declaration? The	14:23:09
12	declaration from former Secretary Clinton was filed.	14:23:10
13	MS. BERMAN: It's dated August 8th.	14:23:14
14	Q So is it the witness's testimony that the	14:23:17
15	declaration was the response to the August 5th,	14:23:21
16	2015, letter? Or is that -- yeah, strike that.	14:23:25
17	MS. WOLVERTON: If you wanted to ask that	14:23:36
18	question --	14:23:37
19	MR. BEKESHA: No. I asked the question	14:23:39
20	is --	14:23:40
21	Q I'm asking -- I asked if the State	14:23:40
22	Department received a response to the August 5th,	14:23:43

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1	2015, letter. And I'm asking what was the response.	14:23:46
2	MS. WOLVERTON: Can we take a break? We	14:23:55
3	will try to find that information.	14:23:55
4	MR. BEKESHA: If it's very short, that	14:23:57
5	will be great.	14:23:58
6	MS. WOLVERTON: Well, it depends. There's	14:23:59
7	a lot of papers filed in the case. We'll have to	14:24:01
8	find it. It has been filed in the case.	14:24:03
9	MR. BEKESHA: Sure.	14:24:05
10	VIDEO SPECIALIST: We are going off the	14:24:06
11	record. The time is 2:24.	14:24:07
12	(A recess was taken.)	14:24:27
13	VIDEO SPECIALIST: We are back on the	14:32:04
14	record. The time is 2:32.	14:32:10
15	BY MR. BEKESHA:	14:32:13
16	Q Okay.	14:32:14
17	MS. WOLVERTON: Before you ask your next	14:32:14
18	question, Ms. Lang, would you like to clarify or add	14:32:16
19	to your last response?	14:32:19
20	THE WITNESS: Yes. I have here two	14:32:21
21	documents.	14:32:23
22	MS. WOLVERTON: Why don't we mark this as	14:32:25

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1	Exhibit 5.	14:32:26
2	(Deposition Exhibit 5 marked for	14:32:45
3	identification and is attached to the transcript.)	14:32:49
4	MR. BEKESHA: Can I just take a look at	14:32:49
5	it.	14:32:49
6	MS. WOLVERTON: Of course.	14:32:49
7	MS. BERMAN: Sorry we don't have copies.	14:32:51
8	A To amend my answer to the previous	14:32:56
9	question, from the defendant's status report filed	14:32:58
10	on the 7th of August, 2015, Paragraph 2 reads, "The	14:33:02
11	department has also complied with subparts 2 and 3	14:33:08
12	of the court's order. On August 5th, 2015, the	14:33:11
13	department wrote to the former Secretary,	14:33:14
14	Ms. Abedin, and Ms. Mills, requesting that these	14:33:17
15	individuals provide it with the information that the	14:33:19
16	court ordered it to request regarding federal	14:33:21
17	records in their possession. Copies of these	14:33:24
18	letters are attached."	14:33:27
19	And then in the supplement to	14:33:32
20	defendant's --	14:33:35
21	MS. WOLVERTON: Sorry. I think there's	14:33:36
22	another carry over on the next page.	14:33:38

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1	A	I was just going to read the key part, but	14:33:41
2		I'll read the whole paragraph.	14:33:43
3		"Copies of these letters are attached	14:33:46
4		hereto as Exhibits B, C, and D. On August 6, 2015,	14:33:49
5		counsel for Ms. Abedin responded to the department's	14:33:53
6		request for federal records in her possession. A	14:33:57
7		copy of this letter is attached hereto as Exhibit E.	14:34:00
8		On August 6, 2015, counsel for Ms. Mills responded	14:34:04
9		to the department's August 5th letter. A copy of	14:34:08
10		that letter is attached hereto as Exhibit F. The	14:34:11
11		department has not yet received a response to its	14:34:14
12		letter from the former Secretary."	14:34:17
13		Turning to Exhibit 5, which is a	14:34:22
14		supplement to the defendant's August 7th, 2015,	14:34:26
15		status report, filed on August 10, 2015. It reads,	14:34:30
16		"This is to supplement Paragraph 2 of the August 7,	14:34:38
17		2015, status report filed by the U.S. Department of	14:34:42
18		State. Attached hereto as Exhibit A is a	14:34:47
19		declaration dated August 8, 2015, from former	14:34:50
20		Secretary Clinton."	14:34:54
21	Q	Okay. Thank you. Can I see Exhibit 4.	14:34:56
22		Okay. In Paragraph 2 it states, "On	14:35:27

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1	August 5, 2015, the department wrote to former	14:35:34
2	Secretary, Ms. Abedin and Ms. Mills requesting that	14:35:37
3	these individuals provide it with the information	14:35:41
4	that the court ordered it to request regarding	14:35:43
5	federal records in their -- in their possession."	14:35:47
6	In the August 5th letters, did the State	14:35:53
7	Department specifically ask those individuals if	14:35:54
8	they have returned all records potentially	14:35:58
9	responsive to this specific FOIA request?	14:36:01
10	MS. WOLVERTON: Objection. The documents	14:36:04
11	speak for themselves.	14:36:07
12	Q You may answer the question.	14:36:08
13	A May I see the exhibit?	14:36:09
14	Reading from Exhibit 4, the letter dated	14:36:11
15	August 5th, 2015, from the State Department, Under	14:36:33
16	Secretary of State for Management, to counsel for	14:36:39
17	former Secretary Clinton. "As you know, the	14:36:41
18	department requested that your client, former	14:36:50
19	Secretary of State Hillary Clinton, provide it with	14:36:52
20	any federal records in her possession, such as an	14:36:55
21	e-mail sent or received on a personal e-mail account	14:36:58
22	while serving as Secretary of State if there is	14:37:01

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1	reason to believe that it may not otherwise be	14:37:04
2	preserved in the department's recordkeeping system.	14:37:06
3	"Your client has produced approximately	14:37:10
4	55,000 pages of documents in response. I am writing	14:37:11
5	to you now regarding additional requests the	14:37:18
6	Department has been ordered to make of your client	14:37:21
7	in a Freedom for Information Act, FOIA Case Judicial	14:37:23
8	Watch versus Department of State, DDC Number	14:37:26
9	13-CV-1363.	14:37:32
10	"On July 31st, 2015, the United States	14:37:35
11	District Court in the Judicial Watch case ordered	14:37:38
12	the Department to make two requests of your client	14:37:41
13	related to the FOIA requests at issue in that case.	14:37:44
14	Those FOIA requests seek the following information:	14:37:47
15	Any and all SS 50 notification of" personnel --	14:37:51
16	"personnel action forms for Abedin, any and all	14:37:57
17	contracts including but not limited to personal	14:37:59
18	service contracts between the Department of State	14:38:01
19	and Ms. Abedin, and any and all records regarding,	14:38:03
20	concerning or related to the authorization for	14:38:08
21	Ms. Abedin to represent individual clients and/or	14:38:10
22	otherwise engaged in outside employment while	14:38:14

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1	employed by and/or engaged in a contractual	14:38:17
2	arrangement with the Department of State.	14:38:21
3	"Pursuant to the court's order, a copy of	14:38:24
4	which is attached, the department requests that your	14:38:26
5	client confirm under penalty of perjury that she has	14:38:29
6	produced all responsive information that was or is	14:38:33
7	in her possession as a result of her employment at	14:38:37
8	the State Department.	14:38:40
9	"If all such information has not yet been	14:38:42
10	produced, please produce the information forthwith	14:38:44
11	and describe under penalty of perjury the extent to	14:38:50
12	which" -- Ms. Mills and -- "Ms. Abedin and Ms. Mills	14:38:53
13	used Mrs. Clinton's e-mail server to conduct	14:38:57
14	official government business.	14:39:00
15	"In the event you have questions regarding	14:39:04
16	the transfer of records to the department, please	14:39:06
17	contact the agency records officer William Fischer	14:39:07
18	at 202-261-8369. In the meantime, I would	14:39:10
19	appreciate it if you would confirm receipt of this	14:39:16
20	letter and respond to the above request for	14:39:19
21	information in writing as soon as possible."	14:39:21
22	And it is signed by Under Secretary Pat	14:39:25

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1	Kennedy.	14:39:29
2	Q Thank you. So is it fair to say that the	14:39:29
3	State Department asked Mrs. Clinton or her	14:39:31
4	representatives to confirm that all records	14:39:34
5	potentially responsive to this FOIA request, confirm	14:39:36
6	that she had returned all records potentially	14:39:40
7	responsive to this FOIA request?	14:39:43
8	MS. WOLVERTON: Objection. The document	14:39:44
9	speaks for itself.	14:39:45
10	Q You may answer the question.	14:39:46
11	A The document speaks for itself.	14:39:53
12	Q Okay. Did Mrs. Clinton respond -- did	14:39:55
13	Mrs. Clinton confirm for the State Department that	14:39:57
14	she produced all records potentially responsive to	14:40:00
15	this FOIA request?	14:40:02
16	MS. WOLVERTON: Objection. The document	14:40:04
17	provided by Ms. Clinton speaks for itself.	14:40:05
18	Q You may answer the question.	14:40:09
19	A The document speaks for itself.	14:40:11
20	Q When you read the document -- as the	14:40:14
21	document sits in front of you, does the document	14:40:17
22	state -- do you believe the document states that	14:40:20

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1 Mrs. Clinton returned all records potentially 14:40:22
2 responsive to this FOIA request? 14:40:24

3 MS. WOLVERTON: Objection. The document 14:40:26
4 speaks for itself, and calls for a legal conclusion. 14:40:28

5 Q You may answer the question. 14:40:34

6 A I am not a lawyer, and I'm not qualified 14:40:35
7 to make a legal conclusion. 14:40:37

8 Q Does the State Department believe that 14:40:38
9 Mrs. Clinton confirmed that all records 14:40:40
10 responsive -- that are potentially responsive to 14:40:44
11 this FOIA request have been returned to the State 14:40:45
12 Department? 14:40:51

13 MS. WOLVERTON: Objection. Calls for a 14:40:51
14 legal conclusion. 14:40:53

15 Q You may answer the question. 14:40:54

16 A I'm not an attorney. I can't make a legal 14:40:56
17 conclusion. 14:41:00

18 Q Sure. The question didn't ask for a legal 14:41:00
19 conclusion. 14:41:03

20 Does the State Department believe that 14:41:04
21 Mrs. Clinton confirmed that she returned all 14:41:06
22 responsive records -- all records potentially 14:41:09

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1	responsive to the FOIA requests in this case?	14:41:12
2	You may answer the question.	14:41:19
3	MS. WOLVERTON: Objection. The document	14:41:21
4	speaks for itself.	14:41:22
5	Q You can answer the question.	14:41:24
6	A I have nothing to add.	14:41:26
7	Q A similar e-mail -- similar letter from	14:41:29
8	Under Secretary -- you testified that a similar	14:41:33
9	letter was sent by Under Secretary Pat Kennedy to	14:41:35
10	Ms. Abedin.	14:41:38
11	Does Ms. Abedin in response to that letter	14:41:40
12	confirm that she returned all potentially responsive	14:41:42
13	records -- all records to the State Department that	14:41:45
14	are potentially responsive to the FOIA request at	14:41:48
15	issue in this case?	14:41:51
16	MS. WOLVERTON: Objection. The document	14:41:51
17	speaks for itself.	14:41:55
18	Q You can answer the question.	14:41:56
19	A I have nothing to add to the document.	14:41:59
20	Q What document are you referring to?	14:42:01
21	A At the time the letter was sent on August	14:42:29
22	5th, the response on August 6th that was attached to	14:42:31

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1	this court filing was a partial response, because at	14:42:35
2	that time Ms. Abedin was still producing documents	14:42:39
3	and returning them to the State Department.	14:42:42
4	Q Okay. Has Ms. -- has Ms. Abedin finished	14:42:44
5	producing records to the State Department?	14:42:48
6	MS. WOLVERTON: Objection. Extends beyond	14:42:51
7	the scope of the 30(b)(6) topic noticed for	14:42:53
8	deposition.	14:42:57
9	On that basis I'll instruct the witness	14:42:58
10	not to answer.	14:43:00
11	Q Has Ms. Abedin informed the State	14:43:00
12	Department that she has returned all records	14:43:03
13	potentially responsive to the FOIA request at issue	14:43:06
14	in this case?	14:43:08
15	You can answer the question.	14:43:14
16	MS. WOLVERTON: Objection to the extent	14:43:15
17	the document speaks for itself.	14:43:17
18	MR. BEKESHA: What document are you	14:43:21
19	referring to? The witness just said the document	14:43:22
20	was -- the document she's referring to was sent	14:43:23
21	earlier and there were subsequent documents. So	14:43:25
22	what document are you referring to?	14:43:28

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1	MS. WOLVERTON: The documents that	14:43:29
2	comprise the record of the case.	14:43:30
3	If you want, we can take another break and	14:43:33
4	go find them or --	14:43:35
5	MR. BEKESHA: Sure.	14:43:36
6	MS. BERMAN: Why don't we go off the	14:43:37
7	record.	14:43:38
8	VIDEO SPECIALIST: We are going off the	14:43:39
9	record. The time is 1:43 -- 2:43.	14:43:40
10	(A recess was taken.)	14:43:49
11	(Deposition Exhibit 6 marked for	14:43:49
12	identification and is attached to the transcript.)	15:13:34
13	VIDEO SPECIALIST: We are back on the	15:13:34
14	record. The time is 3:13.	15:13:38
15	MR. BEKESHA: Thank you.	15:13:41
16	BY MR. BEKESHA:	15:13:41
17	Q Does the State Department know if	15:13:42
18	Mrs. Clinton and Ms. Abedin have turned over all	15:13:44
19	records potentially responsive to the FOIA request	15:13:47
20	at issue in this case?	15:13:50
21	A No. The department is relying on the	15:13:52
22	representations of these former employees.	15:13:54

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1	Q	Okay.	15:13:57
2		MR. BEKESHA: We have no other questions.	15:14:00
3		MS. WOLVERTON: No further questions.	15:14:05
4		We just reserve the witness's right to	15:14:06
5		review and sign the transcript.	15:14:08
6		VIDEO SPECIALIST: This marks the end of	15:14:10
7		the deposition of Karin Lang. We are going off the	15:14:12
8		record at 3:14.	15:14:15
9		(Off the record at 3:14 p.m.)	
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ACKNOWLEDGMENT OF DEPONENT

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

12 IN WITNESS WHEREOF, I have hereunto set my hand and
13 affixed my notarial seal this 9th day of June, 2016.

14
15 My commission expires:

16 September 14, 2018

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21 NOTARY PUBLIC IN AND FOR THE

22 DISTRICT OF COLUMBIA

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United States Department of State
Washington, D.C. 20520

FEB 12 2014

Case No. F-2013-08812
Segment: HR-0001

Mr. Sean A Dunagan
Judicial Watch
425 Third Street SW, Suite 800
Washington, DC 20024

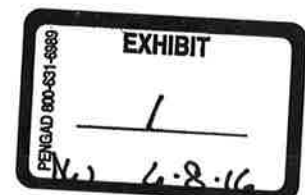
Dear Mr. Dunagan:

In response to your request dated May 21, 2013 under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552, we have completed searches of the following Department of State (the "Department") records systems: the Central Foreign Policy Records (the principal records system of the Department), the Bureau of Human Resources, the Office of the Executive Secretariat, and the Office of the Legal Adviser.

Searches of these Department components have resulted in the retrieval of eight documents responsive to your request. After reviewing these documents, we have determined that all eight may be released in part. All released material is enclosed.

Where we have made excisions, the applicable exemptions are marked on each document. All eight documents released in part contain information withheld under Exemption 6, 5 U.S.C. § 552(b)(6). An enclosure explains FOIA exemptions and other grounds for withholding material.

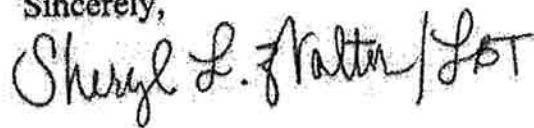
As these records are subject to pending litigation, there is no administrative appeal available. See 22 C.F.R. § 171.52(a).



- 2 -

This concludes our processing of the case. If you have any questions, please contact Trial Attorney Peter Wechsler at (202) 514-2705 or Peter.Wechsler@usdoj.gov.

Sincerely,

A handwritten signature in black ink that reads "Sheryl L. Walter / LWT". The signature is written in a cursive, flowing style.

Sheryl L. Walter, Director
Office of Information Programs and Services

Enclosures:
As stated.

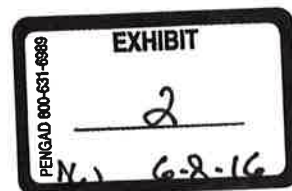
Judicial Watch Inc. V. Department of State

June 7, 2016



Deposition for F-2013-08812

Karin Lang, Director of the Executive Secretariat Staff



DEPOSITION MATERIALS FOR DIRECTOR LANG
JUNE 6, 2016



Deposition Materials Included

1. **22 CFR 171**
2. **Guides**
 - A. 2010 Department FOIA Guide
 - B. Information Access Guide
3. **Abedin Declarations**
 - A. 3/30/2015
 - B. 8/14/2015
 - C. 8/19/2015
 - D. 11/3/2015
 - E. 2/19/2016
 - F. 5/25/2016
4. **Abedin Productions**
 - A. 2/12/2015
 - B. 9/18/2015
 - C. 10/13/2015
 - D. 11/12/2015
5. **Reports**
 - A. 2012 IPS OIG Report
 - B. January, 2016 S/ES FOIA OIG Report
 - C. May, 2016 OIG Report

6. **Department Notices**
 - A. 2009
 - B. 2016
7. **Organization Charts**
 - A. S/ES Transition 2009
 - B. S/ES 2016
 - C. IPS 2013
 - D. IPS 2016
8. **FAM**
 - A. 1 FAM 022 Office of the Secretary of State (S)
 - B. 1 FAM 214 Office of Information Programs and Services (A/GIS/IPS)
9. **FOIA FAM**
 - A. 5 FAM 400 Records Management
 - B. 5 FAM 450 Management of Digital Imaging Records
 - C. 5 FAM 470 Accessing and Using Department of State Information
 - D. 5 FAM 720 General Policies

SUBCHAPTER R—ACCESS TO INFORMATION

PART 171—AVAILABILITY OF INFORMATION AND RECORDS TO THE PUBLIC

Subpart A—General Policy and Procedures

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 - 171.2 Types of records maintained.
 - 171.3 Public reading room.
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 - 171.5 Requests for information—types and how made.
 - 171.6 Archival records.

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- 171.10 Purpose and scope.
- 171.11 Definitions.
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- 171.13 Business information.
- 171.14 Fees to be charged—general.
- 171.15 Fees to be charged—categories of requesters.
- 171.16 Miscellaneous fee provisions.
- 171.17 Waiver or reduction of fees.

Subpart C—Executive Order 12958 Provisions

- 171.20 Definitions.
- 171.21 Declassification review.
- 171.22 Appeals.
- 171.23 Declassification in the public interest.
- 171.24 Access by historical researchers and certain former government personnel.
- 171.25 Applicability of other laws.

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- 171.30 Purpose and scope.
- 171.31 Definitions.
- 171.32 Request for access to records.
- 171.33 Request to amend or correct records.
- 171.34 Request for an accounting of record disclosures.
- 171.35 Denials of requests; appeals.
- 171.36 Exemptions.

Subpart E—Ethics in Government Provisions

- 171.40 Purpose and scope.
- 171.41 Covered employees.
- 171.42 Requests and identifying information.
- 171.43 Time limits and fees.
- 171.44 Improper use of reports.

Subpart F—Appeals Procedures

- 171.50 Appeals of denials of expedited processing.
- 171.51 Appeals of denials of fee waivers or reductions.
- 171.52 Appeal of denial of access to, declassification of, amendment of, accounting of disclosures of, or challenge to classification of records.

AUTHORITY: 22 U.S.C. 552, 552a; Ethics in Government Act of 1978, Pub. L. 95-521, 92 Stat. 1824, as amended; E.O. 12958, as amended, 60 FR 19825, 3 CFR, 1995 Comp., p. 333; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

SOURCE: 69 FR 63935, Nov. 3, 2004, unless otherwise noted.

Subpart A—General Policy and Procedures

§ 171.1 Availability of information.

Records of the Department of State shall be made available to the public upon request made in compliance with the access procedures established in this part, except for any records exempt by law from disclosure. Any request for records must describe the information sought in such a way (see § 171.5(c)) that an employee of the Department of State who is familiar with the subject area of the request can locate the records with a reasonable amount of effort. The sections that follow govern the response of the Department to requests for information under the Freedom of Information Act, the Privacy Act, Executive Order 12958, and the Ethics in Government Act. Regulations at 22 CFR 172.1-9 govern the response of the Department to subpoenas, court orders, and certain other requests for testimony of Department officials or disclosure of Department records in litigation to which the Department is not a party.

§ 171.2 Types of records maintained.

Most of the records maintained by the Department pertain to the formulation and execution of U.S. foreign policy. Certain records that pertain to individuals are also maintained such as applications for U.S. passports, applications for visas to enter the U.S.,

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records on consular assistance given abroad by U.S. Foreign Service posts to U.S. citizens, and records on Department employees. Further information on the types of records maintained by the Department may be obtained by reviewing the records disposition schedules which are available through the Department's Web site: <http://www.state.gov> or directly at the FOIA home page: <http://foia.state.gov>.

§ 171.3 Public reading room.

A reading room providing public access to certain Department of State material is located in the Department of State, SA-2, 515 22nd Street, NW., Washington, DC. The reading room contains material pertaining to access to information under the Freedom of Information Act, Privacy Act, E.O. 12958 and includes those statutes, regulations, guidelines, and other items required to be made available to the public under 5 U.S.C. 552(a)(2). Also available in the reading room are microfiches of records released by the Department pursuant to requests under the Freedom of Information Act and compilations of documents reviewed and released in certain special projects. The reading room is open during normal Department weekday working hours, 8:15 a.m. to 5 p.m. There are no fees for access by the public to this room or the material contained therein, but fees shall be assessed for the duplication of materials maintained in the reading room at the rate of 15 cents per page and \$2.00 per microfiche card. Fees for copies made by other methods of reproduction or duplication, such as tapes, printouts, or CD-ROM, shall be the actual cost of producing the copies, including operator time. Persons wishing to use their own copying equipment must request approval in advance from the Department's Information and Privacy Coordinator, U.S. Department of State, SA-2, 515 22nd Street, NW., Washington, DC 20522-6001. The use of such equipment must be consistent with security regulations of the Department and is subject to the availability of personnel to monitor such copying.

22 CFR Ch. I (4-1-07 Edition)

§ 171.4 Electronic reading room.

The Department has established a site on the Internet with most of the same records and reference materials that are available in the public reading room. This site also contains information on accessing records under the FOIA and the Privacy Act. The site is a valuable source that is easily accessed by the public by clicking on "FOIA" at the Department's Web site at <http://www.state.gov> or directly at the FOIA home page at <http://foia.state.gov>. Included on the FOIA home page are links to other sites where Department information may be available. The Department's Privacy Act systems of records and the various records disposition schedules may be found on the Department's FOIA home page under "Reference Materials."

§ 171.5 Requests for information—types and how made.

(a) Requests for records in accordance with this chapter may be made by mail addressed to the Information and Privacy Coordinator, U.S. Department of State, SA-2, 515 22nd Street, NW., Washington, DC 20522-6001. Facsimile requests under the FOIA only may be sent to: (202) 261-8579. E-mail requests cannot be accepted at this time. Requesters are urged to indicate clearly on their requests the provision of law under which they are requesting information. This will facilitate the processing of the request by the Department. In any case, the Department will process the request under the provision of law that provides the greatest access to the requested records.

(b) Requests may also be made by the public in person from 8:15 a.m. to 5 p.m. at the Department of State, SA-2, 515 22nd Street, NW., Washington, DC.

(c) Although no particular request format is required, it is essential that a request reasonably describe the Department records that are sought. The burden of adequately identifying the record requested lies with the requester. Requests should be specific and include all pertinent details about the request. For FOIA requests, the request should include the subject, time-frame, any individuals involved, and reasons why the Department is believed to have records on the subject of

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the request. For Privacy Act requests, the request should state the type of records sought, the complete name and date and place of birth of the subject of the request, and the timeframe for the records. An original signature is required. See § 171.12(b) for guidance regarding third party requests. Individuals may seek assistance regarding any aspect of their requests from the Chief, Requester Liaison Division, (202) 261-8484.

(d) While every effort is made to guarantee the greatest possible access to all requesters regardless of the specific statute under which the information is requested, the following guidance is provided for individuals in requesting records:

(1) *Freedom of Information Act*. Requests for documents concerning the general activities of government and of the Department of State in particular (see subpart B of this part).

(2) *E.O. 12958*. Requests for mandatory review and declassification of specific Department records and requests for access to such records by historical researchers and certain former government officials (see subpart C of this part).

(3) *Privacy Act*. Requests from U.S. citizens or legal permanent resident aliens for records that pertain to them and that are maintained by the Department under the individual's name or personal identifier (see subpart D of this part).

(4) *Ethics in Government Act*. Requests for the financial Disclosure Statements of Department Employees covered by this Act (see subpart E of this part).

(e) *First-in/first-out processing*. As a general matter, information access requests are processed in the order in which they are received. However, if the request is specific and the search can be narrowed, it may be processed more quickly.

(f) *Cut-off date*. In determining which records are responsive to a request, the Department ordinarily will include only records in its possession as of the date the search for responsive documents is initiated, unless the requester has specified an earlier time frame.

(g) *Records previously withheld or in litigation*. Requests shall not be processed for records that have been re-

viewed and withheld within the past two years or whose withholding is the subject of litigation.

§ 171.6 Archival records.

The Department ordinarily transfers records to the National Archives when they are 25 years old. Accordingly, requests for records 25 years old or older should be addressed to: Archives II, 8601 Adelphi Road, National Archives at College Park, MD 20470-6001.

Subpart B—Freedom of Information Act Provisions

§ 171.10 Purpose and scope.

This subpart contains the rules that the Department follows under the Freedom of Information Act (FOIA), 5 U.S.C. 552. The rules should be read together with the FOIA which provides additional information about access to records and contains the specific exemptions that are applicable to withholding information. Privacy Act records determined to be exempt from disclosure under the Privacy Act are processed as well under the FOIA and are subject to this subpart.

§ 171.11 Definitions.

As used in this subpart, the following definitions shall apply:

(a) *Freedom of Information Act* or *FOIA* means the statute codified at 5 U.S.C. 552, as amended.

(b) *Department* means the United States Department of State, including its field offices and Foreign Service posts abroad;

(c) *Agency* means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the government (including the Executive Office of the President), or any independent regulatory agency;

(d) *Information and Privacy Coordinator* means the Director of the Department's Office of Information Programs and Services (IPS) who is responsible for processing requests for access to information under the FOIA, the Privacy Act, E.O. 12958, and the Ethics in Government Act;

(e) *Record* means all information under the control of the Department,

including information created, stored, and retrievable by electronic means, regardless of physical form or characteristics, made in or received by the Department and preserved as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the Department or because of the informational value of the data contained therein. It includes records of other Government agencies that have been expressly placed under the control of the Department upon termination of those agencies. It does not include personal records created primarily for the personal convenience of an individual and not used to conduct Department business and not integrated into the Department's record keeping system or files. It does not include records that are not already in existence and that would have to be created specifically to meet a request. However, information available in electronic form shall be searched and compiled in response to a request unless such search and compilation would significantly interfere with the operation of the Department's automated information systems.

(f) *Control* means the Department's legal authority over a record, taking into account the ability of the Department to use and dispose of the record as it sees fit, to legally determine the disposition of a record, the intent of the record's creator to retain or relinquish control over the record, the extent to which Department personnel have read or relied upon the record, and the degree to which the record has been integrated into the Department's record keeping system or files.

(g) *Direct costs* means those costs the Department incurs in searching for, duplicating, and, in the case of commercial requests, reviewing documents in response to a FOIA request. The term does not include overhead expenses.

(h) *Search costs* means those costs the Department incurs in looking for, identifying, and retrieving material, in paper or electronic form, that is responsive to a request, including page-by-page or line-by-line identification of material within documents. The Department shall attempt to ensure that searching for material is done in the most efficient and least expensive man-

ner so as to minimize costs for both the Department and the requester.

(i) *Duplication costs* means those costs the Department incurs in copying a requested record in a form appropriate for release in response to a FOIA request. Such copies may take the form of paper copy, microfiche, audio-visual materials, or machine-readable electronic documentation (e.g., disk or CD-ROM), among others.

(j) *Review costs* means costs the Department incurs in examining a record to determine whether and to what extent the record is responsive to the FOIA request and the extent to which it may be disclosed to the requester. It does not include costs of resolving general legal or policy issues that may be raised by a request.

(k) *Unusual circumstances*. As used herein, but only to the extent reasonably necessary to the proper processing of the particular request, the term "unusual circumstances" means:

(1) The need to search for and collect the requested records from Foreign Service posts or other separate and distinct Department offices;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request; or

(3) The need for consultation with another agency having a substantial interest in the determination of the request or among two or more components of the Department that have a substantial subject matter interest therein. Such consultation shall be conducted with all practicable speed.

(l) *Commercial use request* means a request from or on behalf of one who requests information for a use or purpose that furthers the commercial, trade, or profit interest of the requester or the person on whose behalf the request is made. In determining whether a requester belongs within this category, the Department will look at the use to which the requester will put the information requested.

(m) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, an institution of professional education, or an institution

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of vocational education, that operates a program or programs of scholarly research.

(n) *Non-commercial scientific institution* means an institution that is not operated on a "commercial" basis, as that term is used in paragraph (1) of this section and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(o) *Representative of the news media* means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term news means information that is about current events or that would be of current interest to the public. News media include television or radio stations broadcasting to the public at large and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase by the general public. Freelance journalists may be regarded as working for a news organization if they can demonstrate, such as by past publication, a likelihood of publication through a representative of the news media, even though not actually employed by it.

(p) *All other* means an individual or organization not covered by a definition in paragraphs (1), (m), (n), or (o) of this section.

§ 171.12 Processing requests.

The Information and Privacy Coordinator is responsible for acting on all initial requests except for requests for records coming under the jurisdiction of the Bureau of Consular Affairs, the Bureau of Diplomatic Security, the Bureau of Human Resources, the Office of Medical Services, and the Office of the Inspector General.

(a) *Third party requests.* Except for requests under the Privacy Act by a parent of a minor or by a legal guardian (§ 171.32(c)), requests for records pertaining to another individual shall be processed under the FOIA and must be accompanied by a written authorization for access by the individual, notarized or made under penalty of perjury, or by proof that the individual is de-

ceased (e.g., death certificate or obituary).

(b) *Expedited processing.* Requests and appeals shall be taken out of order and given expedited treatment whenever a requester has demonstrated that a "compelling need" for the information exists. A request for expedited processing may be made at the time of the initial request for records or at any later time. The request for expedited processing shall set forth with specificity the facts on which the request is based. A notice of the determination whether to grant expedited processing shall be provided to the requester within 10 days of the date of the receipt of the request. A "compelling need" is deemed to exist where the requester can demonstrate one of the following:

(1) Failure to obtain requested information on an expedited basis could reasonably be expected to: Pose an imminent threat to the life or physical safety of an individual; impair substantial due process rights; or harm substantial humanitarian interests.

(2) The information is urgently needed by an individual primarily engaged in disseminating information in order to inform the public concerning actual or alleged Federal Government activity. News media requesters would normally qualify; however, other persons must demonstrate that their primary activity involves publishing or otherwise disseminating information to the public, not just a particular segment or group.

(1) *Urgently needed.* The information has a particular value that will be lost if not disseminated quickly. Ordinarily this means a breaking news story of general public interest. Information of historical interest only, or information sought for litigation or commercial activities would not qualify, nor would a news media publication or broadcast deadline unrelated to the breaking nature of the story.

(ii) *Actual or alleged Federal Government activity.* The information concerns some actions taken, contemplated, or alleged by or about the government of the United States, or one of its components or agencies, including the Congress.

(c) *Appeal of denial of expedited processing.* Any denial of a request for expedited processing may be appealed in accordance with the appeal procedure set forth in § 171.50.

(d) *Time limits.* The statutory time limit for responding to a FOIA request or to an appeal from a denial of a FOIA request is 20 days. In unusual circumstances, as defined in § 171.11(k), the time limits may be extended by the Information and Privacy Coordinator for not more than 10 days, excepting Saturdays, Sundays, or legal public holidays.

(e) *Multitrack processing.* The Department may use two or more processing tracks by distinguishing between simple and more complex requests based on the amount of work and/or time needed to process the request. The Department may provide requesters in a slower track an opportunity to limit the scope of their request in order to qualify for faster processing.

(f) *Form or format of response.* The Department shall provide requested records in any form or format sought by the requester if the record is readily reproducible in that form or format through reasonable efforts.

§ 171.13 Business information.

(a) Business information obtained by the Department from a submitter will be disclosed under the FOIA only in compliance with this section.

(b) *Definitions.* For purposes of this section:

(1) *Business information* means information obtained by the Department from a submitter that arguably may be exempt from disclosure as privileged or confidential under Exemption 4 of the FOIA.

(2) *Submitter* means any person or entity from which the Department obtains business information. The term includes corporations, partnerships, sole proprietorships; State, local, and tribal governments; and foreign governments.

(c) *Designation of business information.* A submitter of information will use good-faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, any portions of its submission that it considers exempt from dis-

closure under Exemption 4. These designations will expire ten years after the date of the submission unless the submitter requests, and provides justification for, a longer designation period.

(d) *Notice to submitters.* The Department shall provide a submitter with prompt written notice of a FOIA request or administrative appeal of a denial of such a request that seeks its information whenever required under paragraph (e) of this section, except as provided in paragraph (f) of this section, in order to give the submitter an opportunity to object to disclosure of any specified portion of that information. The notice shall either describe the information requested or include copies of the requested records or record portions containing the information.

(e) *When notice is required.* Notice shall be given to a submitter whenever:

(1) The information has been designated in good faith by the submitter as information considered protected from disclosure under Exemption 4; or

(2) The Department has reason to believe that the information may not be protected from disclosure under Exemption 4.

(f) *When notice is not required.* The notice requirements of paragraphs (d) and (e) of this section shall not apply if:

(1) The Department determines that the information should not be disclosed;

(2) The information lawfully has been published or has been officially made available to the public;

(3) Disclosure of the information is required by statute (other than the FOIA) or by a regulation issued in accordance with the requirements of Executive Order 12600; or

(4) The designation made by the submitter under paragraph (c) of this section appears obviously frivolous—except that, in such a case, the Department shall, within a reasonable time prior to a specified disclosure date, give the submitter written notice of any final decision to disclose the information.

(g) *Opportunity to object to disclosure.* The Department will allow a submitter a reasonable time to respond to the notice described in paragraph (d) of this

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section and will specify that time period in the notice. If a submitter has any objection to disclosure, a detailed written statement in support of the objection must be submitted. The statement must specify all grounds for withholding any portion of the information under any exemption of the FOIA and, in the case of Exemption 4, it must show why the information is a trade secret or commercial or financial information that is privileged or confidential. In the event that a submitter fails to respond to the notice within the time specified in it, the submitter will be considered to have no objection to disclosure of the information. Information provided by a submitter under this paragraph may itself be subject to disclosure under the FOIA.

(h) *Notice of intent to disclose.* The Department shall consider a submitter's objections and specific grounds for non-disclosure in deciding whether to disclose business information. Whenever the Department decides to disclose business information over the objection of a submitter, it shall give the submitter written notice, which shall include:

(1) A statement of the reason why each of the submitter's disclosure objections was not sustained;

(2) A description of the information to be disclosed; and

(3) A specified disclosure date, which shall be a reasonable time subsequent to the notice.

(i) *Notice of lawsuit.* Whenever a requester files a lawsuit seeking to compel the disclosure of information, the Department shall promptly notify the submitter.

(j) *Notice to requester.* Whenever the Department provides a submitter with notice and an opportunity to object to disclosure under paragraph (d) of this section, the Department shall also notify the requester. Whenever the Department notifies a submitter of its intent to disclose requested information under paragraph (h) of this section, the Department shall also notify the requester. Whenever a submitter files a lawsuit seeking to prevent the disclosure of business information, the Department shall notify the requester.

§ 171.14 Fees to be charged—general.

The Department shall seek to charge fees that recoup the full allowable direct costs it incurs in processing a FOIA request. It shall use the most efficient and least costly methods to comply with requests for documents made under the FOIA. The Department will not charge fees to any requester, including commercial use requesters, if the cost of collecting a fee would be equal to or greater than the fee itself. With the exception of requesters seeking documents for a commercial use, the Department will provide the first two hours of search time and the first 100 pages of duplication without charge. By making a FOIA request, the requester shall be considered to have agreed to pay all applicable fees up to \$25.00 unless a fee waiver has been granted.

(a) *Searches for responsive records.* If the Department estimates that the search costs will exceed \$25.00, the requester shall be so notified. Such notice shall offer the requester the opportunity to confer with Department personnel with the object of reformulating the request to meet the requester's needs at a lower cost. The request shall not be processed further unless the requester agrees to pay the estimated fees.

(1) *Manual searches.* The Department will charge at the salary rate (i.e., basic pay plus 16 percent of basic pay) of the employee making the search.

(2) *Computer searches.* The Department will charge at the actual direct cost of providing the service. This will include the cost of operating the central processing unit (CPU) for that portion of operating time that is directly attributable to searching for records responsive to a FOIA request and operator/programmer salary attributable to the search.

(b) *Review of records.* Only requesters who are seeking documents for commercial use may be charged for time spent reviewing records to determine whether they are releasable. Charges may be assessed for the initial review only; i.e., the review undertaken the first time the Department analyzes the applicability of a specific exemption to a particular record or portion of a record.

(c) *Duplication of records.* Records shall be duplicated at a rate of \$.15 per page. For copies prepared by computer, such as tapes or printouts, the Department shall charge the actual cost, including operator time, of production of the tape or printout. For other methods of reproduction or duplication, the Department shall charge the actual direct costs of producing the document. If the Department estimates that the duplication costs will exceed \$25.00, the requester shall be so informed. The request shall not be processed further unless the requester agrees to pay the estimated fees.

(d) *Other charges.* The Department shall recover the full costs of providing services such as those enumerated below:

(1) Certifying that records are true copies (see part 22 of this chapter);

(2) Sending records by special methods such as express mail, overnight courier, etc.

(f) Payment shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the order of the Treasury of the United States and mailed to the Information and Privacy Coordinator.

(g) A receipt for fees paid will be given upon request. Refund of fees paid for services actually rendered will not be made.

§ 171.15 Fees to be charged—categories of requesters.

Under the FOIA, there are four categories of requesters: Commercial use requesters, educational and non-commercial scientific institutions, representatives of the news media, and all other requesters. The fees for each of these categories are:

(a) *Commercial use requesters.* When the Department receives a request for documents for commercial use as defined in § 171.11(1), it will assess charges that recover the full direct costs of searching for, reviewing for release, and duplicating the record sought. Commercial use requesters are not entitled to two hours of free search time or 100 free pages of reproduction of documents. The Department may recover the cost of searching for and reviewing

records even if there is ultimately no disclosure of records (see § 171.16(b)).

(b) *Educational and non-commercial scientific institution requesters.* The Department shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, a requester must show that the request is being made as authorized by and under the auspices of a qualifying institution, as defined in § 171.11(m) and (n), and that the records are not sought for a commercial use, but are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a non-commercial scientific institution) research.

(c) *Representatives of the news media.* The Department shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, a requester must meet the criteria in § 171.11(o), and the request must not be made for a commercial use. A request for records supporting the news dissemination function of the requester shall not be considered to be a commercial use request.

(d) *All other requesters.* The Department shall charge requesters who do not fit into any of the categories above fees that recover the full reasonable direct cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without charge.

§ 171.16 Miscellaneous fee provisions.

(a) *Charging interest.* The Department shall begin assessing interest charges on an unpaid bill starting on the 31st day following the day on which the bill was sent. The fact that the fee has been received by the Department within the thirty-day grace period, even if not processed, shall stay the accrual of interest. Interest will be at the rate prescribed in 31 U.S.C. 3717 and shall accrue from the date of the billing.

(b) *Charges for unsuccessful search or if records are withheld.* The Department may assess charges for time spent

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searching, even if it fails to locate the records or if the records located are determined to be exempt from disclosure.

(c) *Advance payment.* The Department may not require a requester to make an advance payment, *i.e.*, payment before work is commenced or continued on a request, unless:

(1) It estimates or determines that allowable charges that a requester may be required to pay are likely to exceed \$250. In such a case, the Department shall notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or shall require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(2) A requester has previously failed to pay within 30 days of the date of the billing a fee charged. In such a case, the Department shall require the requester to pay the full amount previously owed plus any applicable interest and to make an advance payment of the full amount of the estimated fee before the Department begins to process a new or pending request from that requester. If a requester has failed to pay a fee charged by another U.S. Government agency in an information access case, the Department may require proof that such fee has been paid before processing a new or pending request from that requester.

(3) When the Department acts under paragraph (c)(1) or (2) of this section, the administrative time limits prescribed in the FOIA, 5 U.S.C. 552(a)(6) (*i.e.*, 20 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial, plus permissible extensions of these time limits), will begin only after the Department has received fee payments described in paragraphs (c)(1) and (2) of this section.

(d) *Aggregating requests.* When the Department reasonably believes that a requester, or a group of requesters acting in concert, has submitted multiple requests involving related matters solely to avoid payment of fees, the Department may aggregate those requests for purposes of assessing processing fees.

(e) *Effect of the Debt Collection Act of 1982 (Pub. L. 97-365).* The Department shall comply with provisions of the Debt Collection Act, including disclosure to consumer reporting agencies and use of collection agencies, where appropriate, to effect repayment.

§ 171.17 Waiver or reduction of fees.

(a) Fees otherwise chargeable in connection with a request for disclosure of a record shall be waived or reduced where it is determined that disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government and is not primarily in the commercial interest of the requester.

(1) In order to determine whether disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, the Department will consider the following four factors:

(i) The subject of the request, *i.e.*, whether the subject of the requested records concerns the operations or activities of the government;

(ii) The informative value of the information to be disclosed, *i.e.*, whether the disclosure is likely to contribute to an understanding of government operations or activities;

(iii) The contribution to an understanding of the subject by the general public likely to result from disclosure, *i.e.*, whether disclosure of the requested information will contribute to public understanding, including whether the requester has expertise in the subject area as well as the intention and ability to disseminate the information to the public; and

(iv) The significance of the contribution to public understanding, *i.e.*, whether the disclosure is likely to contribute significantly to public understanding of government operations or activities.

(2) In order to determine whether disclosure of the information is not primarily in the commercial interest of the requester, the Department will consider the following two factors:

(i) The existence and magnitude of a commercial interest, *i.e.*, whether the

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requester has a commercial interest that would be furthered by the requested disclosure; and, if so,

(ii) The primary interest in disclosure, *i.e.*, whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

(b) The Department may refuse to consider waiver or reduction of fees for requesters (persons or organizations) from whom unpaid fees remain owed to the Department for another information access request.

(c) Where only some of the records to be released satisfy the requirements for a waiver or reduction of fees, a waiver or reduction shall be granted for only those records.

(d) The Department's decision to refuse to waive or reduce fees may be appealed in accordance with § 171.51.

Subpart C—Executive Order 12958 Provisions

§ 171.20 Definitions.

As used in this subpart, the following definitions shall apply:

(a) *Agency* means any executive branch agency, as defined in 5 U.S.C. 105, any military department, as defined by 5 U.S.C. 102, and any other entity within the executive branch that comes into possession of classified information.

(b) *Classified information* means information that has been determined pursuant to E.O. 12958 or any predecessor order on national security information to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form.

(c) *Declassification* means the authorized change in the status of information from classified information to unclassified information.

(d) *Department* means the U.S. Department of State, including its field offices and Foreign Service posts abroad.

(e) *FOIA* means the Freedom of Information Act, 5 U.S.C. 552.

(f) *Foreign government information* means:

(1) Information provided to the United States Government by a foreign government or governments, an international organization of governments, or any element thereof, with the expectation that the information, the source of the information, or both, are to be held in confidence;

(2) Information produced by the United States pursuant to or as a result of a joint arrangement with a foreign government or governments, or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence; or

(3) Information received and treated as foreign government information under the terms of a predecessor executive order.

(g) *Information* means any knowledge that can be communicated or documentary material, regardless of its physical form or characteristics that is owned by, produced by or for, or is under the control of the United States Government.

(h) *Mandatory declassification review* means the process by which specific classified information is reviewed for declassification pursuant to a request under § 171.21.

(i) *National Security* means the national defense or foreign relations of the United States.

(j) *Certain former government personnel* includes former officials of the Department of State or other U.S. Government agencies who previously have occupied policy-making positions to which they were appointed by the President under 3 U.S.C. 105(a)(2)(A) or by the Vice President under 3 U.S.C. 106(a)(1)(A). It does not include former Foreign Service Officers as a class or persons who merely received assignment commissions as Foreign Service Officers, Foreign Service Reserve Officers, Foreign Service Staff Officers and employees.

(k) *Senior Agency Official* means the Under Secretary of State for Management.

§ 171.21 Declassification review.

(a) *Scope*. All information classified under E.O. 12958 or predecessor orders

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shall be subject to declassification review upon request by a member of the public or a U.S. government employee or agency with the following exceptions:

(1) Information originated by the incumbent President or, in the performance of executive duties, the incumbent Vice President; the incumbent President's White House staff or, in the performance of executive duties, the incumbent Vice President's staff; committees, commissions, or boards appointed by the incumbent President; other entities within the Executive Office of the President that solely advise and assist the incumbent President;

(2) Information that is the subject of litigation;

(3) Information that has been reviewed for declassification within the past two years; and

(4) Information exempted from search and review under the Central Intelligence Agency Information Act.

(b) *Requests.* Requests for mandatory declassification review should be addressed to the Information and Privacy Coordinator at the address given in Sec. 171.5. E-mail requests are not accepted at this time.

(c) *Mandatory declassification review and the FOIA.* A mandatory declassification review request is separate and distinct from a request for records under the FOIA. When a requester submits a request under both mandatory declassification review and the FOIA, the Department shall require the requester to elect review under one process or the other. If the requester fails to make such election, the request will be under the process that would result in the greatest disclosure unless the information requested is subject to only mandatory declassification review.

(d) *Description of information sought.* In order to be processed, a request for declassification review must describe the document or the material containing the information sought with sufficient specificity to enable the Department to locate the document or material with a reasonable amount of effort. Whenever a request does not sufficiently describe the material, the Department shall notify the requester that no further action will be taken

unless additional description of the information sought is provided.

(e) *Refusal to confirm or deny existence of information.* The Department may refuse to confirm or deny the existence or nonexistence of requested information whenever the fact of existence or nonexistence is itself classified.

(f) *Processing.* In responding to mandatory declassification review requests, the Department shall make a review determination as promptly as possible and notify the requester accordingly. When the requested information cannot be declassified in its entirety, the Department shall release all meaningful portions that can be declassified and that are not exempt from disclosure on other grounds (see § 171.25).

(g) *Other agency information.* When the Department receives a request for information in its possession that was originally classified by another agency, it shall refer the request and the pertinent information to the other agency for processing unless that agency has agreed that the Department may review such information for declassification on behalf of that agency. The Department may, after consultation with the other agency, inform the requester of the referral unless association of the other agency with the information is itself classified.

(h) *Foreign government information.* In the case of a request for material containing foreign government information, the Department, if it is also the agency that initially received the foreign government information, shall determine whether the information may be declassified and may, if appropriate, consult with the relevant foreign government on that issue. If the Department is not the agency that initially received the foreign government information, it shall refer the request to the original receiving agency for direct response to the requester.

(i) *Cryptologic and intelligence information.* Mandatory declassification review requests for cryptologic information shall be processed in accordance with special procedures established by the Secretary of Defense, and such requests for information concerning intelligence activities or intelligence sources and

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methods shall be processed in accordance with special procedures established by the Director of Central Intelligence.

§ 171.22 Appeals.

Any denial of a mandatory declassification review request may be appealed to the Department's Appeals Review Panel in accordance with § 171.52. A denial by the Appeals Review Panel of a mandatory declassification review appeal may be further appealed to the Interagency Security Classification Appeals Panel.

§ 171.23 Declassification in the public interest.

It is presumed that information that continues to meet classification requirements requires continued protection. In exceptional cases, however, the need to protect such information may be outweighed by the public interest in disclosure of the information, and in these cases the information should be declassified. When such questions arise, they shall be referred to the senior Department official with Top Secret authority having primary jurisdiction over the information in question. That official, after consultation with the Assistant Secretary for Public Affairs, will determine whether the public interest in disclosure outweighs the damage to national security that reasonably could be expected from disclosure. If the determination is made that the information should be declassified and disclosed, that official will make such a recommendation to the Secretary or the senior agency official who shall make the decision on declassification and disclosure. This provision does not amplify or modify the substantive criteria or procedures for classification or create any substantive or procedural right subject to judicial review.

§ 171.24 Access by historical researchers and certain former government personnel.

(a) The restriction in E.O. 12958 and predecessor orders on limiting access to classified information to individuals who have a need-to-know the information may be waived, under the conditions set forth below, for persons who:

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(1) Are engaged in historical research projects;

(2) Have served as Presidential or Vice Presidential appointees as defined in § 171.20(j), or

(3) Served as President or Vice President.

(b) Requests by such persons must be submitted in writing to the Information and Privacy Coordinator at the address set forth in § 171.5 and must include a general description of the records sought, the time period covered by the request, and an explanation why access is sought. Requests for access by such requesters may be granted if:

(1) The Secretary or the Senior Agency Official determines in writing that access is consistent with the interests of national security;

(2) The requester agrees in writing to safeguard the information from unauthorized disclosure or compromise;

(3) The requester submits a statement in writing authorizing the Department to review any notes and manuscripts created as a result of access;

(4) The requester submits a statement in writing that any information obtained from review of the records will not be disseminated without the express written permission of the Department;

(c) If a requester uses a research assistant, the requester and the research assistant must both submit a statement in writing acknowledging that the same access conditions set forth in paragraph (b)(4) of this section apply to the research assistant. Such a research assistant must be working for the applicant and not gathering information for publication on his or her own behalf.

(d) Access granted under this section shall be limited to items the appointee originated, reviewed, signed, or received while serving as a Presidential or Vice Presidential appointee or as President or Vice President.

(e) Such requesters may seek declassification and release of material to which they have been granted access under this section through either the FOIA or the mandatory declassification review provisions of E.O. 12958. Such requests shall be processed in the order received, along with other FOIA

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and mandatory declassification review requests, and shall be subject to the fees applicable to FOIA requests.

§ 171.25 Applicability of other laws.

Exemptions from disclosure set forth in the Freedom of Information Act, the Privacy Act, and other statutes or privileges protecting information from disclosure recognized in discovery or other such litigation-related procedures may be applied to withhold information declassified under the provisions of this subpart.

Subpart D—Privacy Act Provisions

§ 171.30 Purpose and scope.

This subpart contains the rules that the Department follows under the Privacy Act of 1974, 5 U.S.C. 552a. These rules should be read together with the Privacy Act, which provides additional information about records maintained on individuals. The rules in this subpart apply to all records in systems of records maintained by the Department that are retrieved by an individual's name or personal identifier. They describe the procedures by which individuals may request access to records about themselves, request amendment or correction of those records, and request an accounting of disclosures of those records by the Department. If any records retrieved pursuant to an access request under the Privacy Act are found to be exempt from disclosure under that Act, they will be processed for possible disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. 552. No fees shall be charged for access to or amendment of Privacy Act records.

§ 171.31 Definitions.

As used in this subpart, the following definitions shall apply:

(a) *Department* means the United States Department of State, including its field offices and Foreign Service posts abroad.

(b) *Individual* means a citizen of the United States or an alien lawfully admitted for permanent residence.

(c) *Maintain* includes maintain, collect, use, or disseminate.

(d) *Record* means any item, collection, or grouping of information about

an individual that is maintained by the Department, including, but not limited to education, financial transactions, medical history, and criminal or employment history, that contains the individual's name or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or photograph.

(e) *System of Records* means a group of any records under the control of the Department from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to an individual.

(f) *Control* has the meaning set forth in § 171.11(f).

(g) *Information and Privacy Coordinator* has the meaning set forth in § 171.11(d).

(h) *DS* is the abbreviation for the Bureau of Diplomatic Security of the U.S. Department of State.

(i) *OIG* is the abbreviation for the Office of the Inspector General of the U.S. Department of State.

§ 171.32 Request for access to records.

(a) *Description of records sought.* All requests for access to a record must reasonably describe the System of Records and the individual's record within the system in sufficient detail to permit identification of the requested record. At a minimum, requests should include the individual's full name (including maiden name, if appropriate) and any other names used, present mailing address and ZIP Code, date and place of birth, and any other information that might help in identifying the record. Helpful data includes the approximate time period of the record and the circumstances that give the individual reason to believe that the Department of State maintains a record under the individual's name or personal identifier. In certain instances, it may be necessary for the Department to request additional information from the requester, either to ensure a full search, or to ensure that a record retrieved does in fact pertain to the individual.

(b) *Verification of personal identity.* The Department will require reasonable identification of individuals requesting records under the Privacy Act to ensure that records are disclosed only to the proper persons. Requesters must state their full name, current address, date and place of birth, and, at the requester's option, social security number. The request must be signed, and the requester's signature must be either notarized or submitted under penalty of perjury (28 U.S.C. 1746) as a substitute for notarization. If the requester seeks records under another name the requester has used, a statement, under penalty of perjury, that the requester has also used the other name must be included.

(c) *Third party access.* The Department shall allow third party access to records under certain conditions:

(1) *Parents.* Upon presentation of documentation of the parental relationship, a parent of a minor (an unmarried person under the age of 18) may, on behalf of the minor, request records pertaining to the minor and the Department may, in its discretion, disclose such records to the parent to the extent determined by the Department to be appropriate in the circumstances of the case. In any case, minors may request such records on their own behalf.

(2) *Guardians.* A guardian of a minor or of an individual who has been declared by a court to be incompetent may act for and on behalf of the minor or the incompetent individual upon presentation of appropriate documentation of the guardian relationship.

(3) *Authorized representatives or designees.* When an individual wishes to authorize another person or persons access to his or her records, the individual shall submit, in addition to the identifying information described in paragraph (b) of this section, a signed statement, either notarized or made under penalty of perjury, authorizing and consenting to access by a designated person or persons. Such requests shall be processed under the FOIA (see § 171.12).

(d) *Records relating to civil actions.* Nothing in this subpart entitles an individual to access to any information

compiled in reasonable anticipation of a civil action or proceeding.

(e) *Time limits.* The Department will acknowledge the request promptly and furnish the requested information as soon as possible thereafter.

(f) *Information on amending records.* At the time the Department grants access to a record, it will also furnish guidelines for requesting amendment of a record. These guidelines may also be obtained by writing to the Information and Privacy Coordinator at the address given in § 171.5. The guidelines are also available in the reading room described in § 171.3 and in the electronic reading room described in § 171.4.

§ 171.33 Request to amend or correct records.

(a) An individual has the right to request that the Department amend a record pertaining to the individual that the individual believes is not accurate, relevant, timely, or complete.

(b) Requests to amend records must be in writing and mailed or delivered to the Information and Privacy Coordinator, at the address given in § 171.5, who will coordinate the review of the request with the appropriate offices of the Department. The Department will require verification of personal identity as provided in § 171.32(b) before it will initiate action to amend a record. Amendment requests should contain, as a minimum, identifying information needed to locate the record in question, a description of the specific correction requested, and an explanation of why the existing record is not accurate, relevant, timely, or complete. The requester should submit as much pertinent documentation, other information, and explanation as possible to support the request for amendment.

(c) All requests for amendments to records will be acknowledged within 10 days (excluding Saturdays, Sundays, and legal public holidays).

(d) In reviewing a record in response to a request to amend, the Department shall review the record to determine if it is accurate, relevant, timely, and complete.

(e) If the Department agrees with an individual's request to amend a record, it shall:

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(1) Advise the individual in writing of its decision;

(2) Amend the record accordingly; and

(3) If an accounting of disclosure has been made, advise all previous recipients of the record of the amendment and its substance.

(f) If the Department denies, in whole or in part, the individual's amendment request, it shall advise the individual in writing of its decision, of the reason therefore, and of the individual's right to appeal the denial in accordance with § 171.52.

§ 171.34 Request for an accounting of record disclosures.

(a) *How made.* Except where accountings of disclosures are not required to be kept, as set forth in paragraph (b) of this section, an individual has a right to request an accounting of any disclosure that the Department has made to another person, organization, or agency of any record about an individual. This accounting shall contain the date, nature, and purpose of each disclosure as well as the name and address of the recipient of the disclosure. Any request for accounting should identify each particular record in question and may be made by writing directly to the Information and Privacy Coordinator at the address given in § 171.5.

(b) *Where accountings not required.* The Department is not required to keep an accounting of disclosures in the case of:

(1) Disclosures made to employees within the Department who have a need for the record in the performance of their duties;

(2) Disclosures required under the FOIA;

(3) Disclosures made to another agency or to an instrumentality of any governmental jurisdiction under the control of or within the United States for authorized civil or criminal law enforcement activities pursuant to a written request from such agency or instrumentality specifying the activities for which the disclosures are sought and the portions of the records sought.

§ 171.35 Denials of requests; appeals.

If the Department denies a request for access to Privacy Act records, for amendment of such records, or for an accounting of disclosure of such records, the requester shall be informed of the reason for the denial and of the right to appeal the denial to the Appeals Review Panel in accordance with § 171.52.

§ 171.36 Exemptions.

Systems of records maintained by the Department are authorized to be exempted from certain provisions of the Privacy Act under both general and specific exemptions set forth in the Act. In utilizing these exemptions, the Department is exempting only those portions of systems that are necessary for the proper functioning of the Department and that are consistent with the Privacy Act. Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, e.g., public source materials, the applicable exemption may be waived, either partially or totally, by the Department or the OIG, in the sole discretion of the Department or the OIG, as appropriate.

(a) *General exemptions.* (1) Individuals may not have access to records maintained by the Department that were provided by another agency that has determined by regulation that such information is subject to general exemption under 5 U.S.C. 552a(j)(1). If such exempt records are the subject of an access request, the Department will advise the requester of their existence and of the name and address of the source agency, unless that information is itself exempt from disclosure.

(2) The systems of records maintained by the Bureau of Diplomatic Security (STATE-36), the Office of the Inspector General (STATE-53), and the Information Access Program Records system (STATE-35) are subject to general exemption under 5 U.S.C. 552a(j)(2). All records contained in record system STATE-36, Security Records, are exempt from all provisions of the Privacy Act except sections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10),

and (11), and (i) to the extent to which they meet the criteria of section (j)(2). These exemptions are necessary to ensure the effectiveness of the investigative, judicial, and protective processes. All records contained in STATE-53, records of the Inspector General and Automated Individual Cross-Reference System, are exempt from all of the provisions of the Privacy Act except sections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) to the extent to which they meet the criteria of section (j)(2). These exemptions are necessary to ensure the proper functions of the law enforcement activity, to protect confidential sources of information, to fulfill promises of confidentiality, to prevent interference with the enforcement of criminal laws, to avoid the disclosure of investigative techniques, to avoid the endangering of the life and safety of any individual, to avoid premature disclosure of the knowledge of potential criminal activity and the evidentiary bases of possible enforcement actions, and to maintain the integrity of the law enforcement process. All records contained in the Information Access Program Records system (STATE-35) are exempt from all of the provisions of the Privacy Act except sections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) to the extent to which they meet the criteria of section (j)(2). These exemptions are necessary to ensure the protection of law enforcement information retrieved from various sources in response to information access requests.

(b) *Specific exemptions.* Portions of the following systems of records are exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), and (4), (G), (H), and (I), and (f). The names of the systems correspond to those published in the FEDERAL REGISTER by the Department.

(1) *Exempt under 5 U.S.C. 552a(k)(1).* The reason for invoking this exemption is to protect material required to be kept secret in the interest of national defense and foreign policy.

Board of Appellate Review Records. STATE-02.

Congressional Correspondence. STATE-43.

Congressional Travel Records. STATE-44.

Coordinator for the Combating of Terrorism Records. STATE-06.

External Research Records. STATE-10.

Extradition Records. STATE-11.

Foreign Assistance Inspection Records. STATE-48.

Human Resources Records. STATE-31.

Information Access Programs Records. STATE-35.

Intelligence and Research Records. STATE-15.

International Organizations Records. STATE-17.

Law of the Sea Records. STATE-19.

Legal Case Management Records. STATE-21.

Munitions Control Records. STATE-42.

Overseas Citizens Services Records. STATE-05.

Overseas Records. STATE-25.

Passport Records. STATE-26.

Personality Cross-Reference Index to the Secretariat Automated Data Index Records. STATE-28.

Personality Index to the Central Foreign Policy Records. STATE-29.

Personnel Payroll Records. STATE-30.

Records of the Inspector General and Automated Individual Cross-Reference System. STATE-53.

Records of the Office of the Assistant Legal Adviser for International Claims and Investment Disputes. STATE-54.

Rover Records. STATE-41.

Records of Domestic Accounts Receivable. STATE-23.

Records of the Office of White House Liaison. STATE-34.

Board of Appellate Review Records. STATE-02.

Refugee Records. STATE-59.

Refugee Data Center Processing Records. STATE-60.

Security Records. STATE-36.

Visa Records. STATE-39.

(2) *Exempt under 5 U.S.C. 552(a)(k)(2).*

The reasons for invoking this exemption are to prevent individuals that are the subject of investigation from frustrating the investigatory process, to ensure the proper functioning and integrity of law enforcement activities, to prevent disclosure of investigative

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techniques, to maintain the confidence of foreign governments in the integrity of the procedures under which privileged or confidential information may be provided, and to fulfill commitments made to sources to protect their identities and the confidentiality of information and to avoid endangering these sources and law enforcement personnel.

Board of Appellate Review Records. STATE-02.

Coordinator for the Combating of Terrorism Records. STATE-06.

Extradition Records. STATE-11.

Foreign Assistance Inspection Records. STATE-48.

Garnishment of Wages Records. STATE-61.

Information Access Program Records. STATE-35.

Intelligence and Research Records. STATE-15.

Munitions Control Records. STATE-42.

Overseas Citizens Services Records. STATE-05.

Overseas Records. STATE-25.

Passport Records. STATE-26.

Personality Cross Reference Index to the Secretariat Automated Data Index. STATE-28.

Personality Index to the Central Foreign Policy Records. STATE-29.

Records of the Inspector General and Automated Individual Cross-Reference System. STATE-53.

Security Records. STATE-36.

Visa Records. STATE-39.

(3) *Exempt under 5 U.S.C. 552(a)(k)(3).* The reason for invoking this exemption is to preclude impairment of the Department's effective performance in carrying out its lawful protective responsibilities under 18 U.S.C. 3056 and 22 U.S.C. 4802.

Extradition Records. STATE-11.

Information Access Programs Records. STATE-35.

Intelligence and Research Records. STATE-15.

Overseas Citizens Services Records. STATE-05.

Overseas Records. STATE-25.

Passport Records. STATE-26.

Personality Cross-Reference Index to the Secretariat Automated Data Index. STATE-28.

Personality Index to the Central Foreign Policy Records. STATE-29.

Security Records. STATE-36.

Visa Records. STATE-39.

(4) *Exempt under 5 U.S.C. 552a(k)(4).* The reason for invoking this exemption is to avoid needless review of records that are used solely for statistical purposes and from which no individual determinations are made.

Foreign Service Institute Records. STATE-14.

Human Resources Records. STATE-31.

Information Access Programs Records. STATE-35.

Personnel Payroll Records. STATE-30.

Security Records. STATE-36.

(5) *Exempt under 5 U.S.C. 552a(k)(5).* The reasons for invoking this exemption are to ensure the proper functioning of the investigatory process, to ensure effective determination of suitability, eligibility, and qualification for employment and to protect the confidentiality of sources of information.

Equal Employment Opportunity Records. STATE-09.

Foreign Assistance Inspection Records. STATE-48.

Foreign Service Grievance Board Records. STATE-13.

Human Resources Records. STATE-31.

Information Access Programs Records. STATE-35.

Legal Adviser Attorney Employment Application Records. STATE-20.

Overseas Records. STATE-25.

Personality Cross-Reference Index to the Secretariat Automated Data Index Records. STATE-28.

Records of the Inspector General and Automated Individual Cross-Reference System. STATE-53.

Records of the Office of White House Liaison. STATE-34.

Rover Records. STATE-41.

Security Records. STATE-36.

Senior Personnel Appointments Records. STATE-47.

(6) *Exempt under 5 U.S.C. 552(k)(6).* The reasons for invoking this exemption are to prevent the compromise of testing or evaluation material used solely to determine individual qualifications for employment or promotion and to avoid giving unfair advantage to

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individuals by virtue of their having access to such material.

Foreign Service Institute Records. STATE-14.

Human Resources Records. STATE-31.

Information Access Programs Records. STATE-35.

Security Records. STATE-36.

(7) *Exempt under 5 U.S.C. 552a(k)(7).* The reason for invoking this exemption is to prevent access to material maintained from time to time by the Department in connection with various military personnel exchange programs.

Overseas Records. STATE-25.

Human Resources Records. STATE-31.

Information Access Programs Records. STATE-35.

Personality Cross-Reference Index to the Secretariat Automated Data Index Records. STATE-28.

Personality Index to the Central Foreign Policy Records. STATE-29.

Subpart E—Ethics in Government Act Provisions

§ 171.40 Purpose and scope.

This subpart sets forth the regulations under which persons may request access to the public financial disclosure reports of employees of the Department as well as limits to such requests and use of such information. The Ethics in Government Act 1978, as amended, and the Office of Government Ethics implementing regulations, 5 CFR part 2634, require that high-level Federal officials disclose publicly their personal financial interests.

§ 171.41 Covered employees.

(a) Officers and employees (including special Government employees as defined in 18 U.S.C. 202) whose positions are classified at grades GS-16 and above of the General Schedule, or the rate of basic pay for which is fixed, other than under the General Schedule, at a rate equal to or greater than the 120% of the minimum rate of basic pay for GS-15 of the General Schedule;

(b) Officers or employees in any other positions determined by the Director of the Office of Government Ethics to be of equal classification to GS-16;

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(c) Employees in the excepted service in positions that are of a confidential or policy-making character, unless by regulation their positions have been excluded by the Director of the Office of Government Ethics;

(d) The designated agency official who acts as the Department's Ethics Officer;

(e) Incumbent officials holding positions referred to above if they have served 61 days or more in the position during the preceding calendar year.

(f) Officials who have terminated employment from a position referred to above and who have not accepted another such position within 30 days of such termination.

§ 171.42 Requests and identifying information.

Requests for access to public financial disclosure reports of covered employees should be made in writing to the Information and Privacy Coordinator at the address given in § 171.5 setting forth:

(a) The name and/or position title of the Department of State official who is the subject of the request,

(b) The time period covered by the report requested,

(c) A completed Office of Government Ethics request form, OGE Form 201, October, 1999. This form may be obtained by writing to the Information and Privacy Coordinator or by visiting the Public Reading Room described in § 171.3 or <http://www.usoge.gov>.

§ 171.43 Time limits and fees.

(a) Reports shall be made available within thirty (30) days from receipt of a request by the Department. The Department does not charge a fee for a single copy of a public financial report. However, the Department will charge for additional copies of a report at a rate of 15 cents per page plus the actual direct cost of mailing the reports. However, the Department will not charge for individual requests if the total charge would be \$10.00 or less.

(b) A report shall be retained by the Department and made available to the public for a period of six (6) years after receipt of such report. After such a six year period, the report shall be destroyed, unless needed in an ongoing

Department of State

§ 171.52

investigation, except that those reports filed by individuals who are nominated for office by the President to a position that requires the advice and consent of the Senate, and who subsequently are not confirmed by the Senate, will be retained and made available for a one-year period, and then destroyed, unless needed in an ongoing investigation.

§ 171.44 Improper use of reports.

(a) The Attorney General may bring a civil action against any person who obtains or uses a financial disclosure report:

- (1) For any unlawful purpose;
- (2) For any commercial purpose, other than for news or community dissemination to the general public;
- (3) For determining or establishing the credit rating of any individual;
- (4) For use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(b) The court in which such action is brought may assess a civil penalty not to exceed \$10,000 against any person who obtains or uses the reports for these prohibited purposes. Such remedy shall be in addition to any other remedy available under statutory or common law.

Subpart F—Appeal Procedures

§ 171.50 Appeal of denials of expedited processing.

(a) A denial of a request for expedited processing may be appealed to the Chief of the Requester Liaison Division of the office of the Information and Privacy Coordinator at the address given in § 171.5 within 30 days of receipt of the denial. Appeals should contain as much information and documentation as possible to support the request for expedited processing in accordance with the criteria set forth in § 171.12(b).

(b) The Requester Liaison Division Chief will issue a final decision in writing within ten (10) days from the date on which the office of the Information and Privacy Coordinator receives the appeal.

§ 171.51 Appeals of denials of fee waivers or reductions.

(a) A denial of a request for a waiver or reductions of fees may be appealed to the Chief of the Requester of Liaison Division of the Office of the Information and Privacy Coordinator at the address given in § 171.5 within 30 days of receipt of the denial. Appeals should contain as much information and documentation as possible to support the request for fee waiver or reduction in accordance with the criteria set forth in § 171.17.

(b) The Requester Liaison Division Chief will issue a final decision in writing within 30 days from the date on which the office of the Information and Privacy Coordinator receives the appeal.

§ 171.52 Appeal of denial of access to, declassification of, amendment of, accounting of disclosures of, or challenge to classification of records.

(a) *Right of administrative appeal.* Except for records that have been reviewed and withheld within the past two years or are the subject of litigation, any requester whose request for access to records, declassification of records, amendment of records, accounting of disclosures of records, or any authorized holder of classified information whose classification challenge has been denied, has a right to appeal the denial to the Department's Appeals Review Panel. This appeal right includes the right to appeal the determination by the Department that no records responsive to an access request exist in Department files. Privacy Act appeals may be made only by the individual to whom the records pertain.

(b) *Form of appeal.* There is no required form for an appeal. However, it is essential that the appeal contain a clear statement of the decision or determination by the Department being appealed. When possible, the appeal should include argumentation and documentation to support the appeal and to contest the bases for denial cited by the Department. The appeal should be sent to: Chairman, Appeals Review

Panel, c/o Information and Privacy Coordinator/Appeals Officer, at the address given in §171.5.

(c) *Time limits.* The appeal should be received within 60 days of the date of receipt by the requester of the Department's denial. The time limit for response to an appeal begins to run on the day that the appeal is received. The time limit (excluding Saturdays, Sundays, and legal public holidays) for agency decision on an administrative appeal is 20 days under the FOIA (which may be extended for up to an additional 10 days in unusual circumstances) and 30 days under the Privacy Act (which the Panel may extend an additional 30 days for good cause shown). The Panel shall decide mandatory declassification review appeals as promptly as possible.

(d) *Notification to appellant.* The Chairman of the Appeals Review Panel shall notify the appellant in writing of the Panel's decision on the appeal. When the decision is to uphold the denial, the Chairman shall include in his notification the reasons therefore. The appellant shall be advised that the decision of the Panel represents the final decision of the Department and of the right to seek judicial review of the Panel's decision, when applicable. In mandatory declassification review appeals, the Panel shall advise the requester of the right to appeal the decision to the Interagency Security Classification Appeals Panel under §3.5(d) of E.O. 12958.

(e) *Procedures in Privacy Act amendment cases.* (1) If the Panel's decision is that a record shall be amended in accordance with the appellant's request, the Chairman shall direct the office responsible for the record to amend the record, advise all previous recipients of the record of the amendment and its substance if an accounting of disclosure has been made, and so advise the individual in writing.

(2) If the Panel's decision is that the request of the appellant to amend the record is denied, in addition to the notification required by paragraph (d) of this section, the Chairman shall advise the appellant:

(i) Of the right to file a concise statement of the reasons for disagreeing with the decision of the Department;

(ii) Of the procedures for filing the statement of disagreement;

(iii) That any statement of disagreement that is filed will be made available to anyone to whom the record is subsequently disclosed, together with, at the discretion of the Department, a brief statement by the Department summarizing its reasons for refusing to amend the record;

(iv) That prior recipients of the disputed record will be provided a copy of any statement of disagreement, to the extent that an accounting of disclosures was maintained.

(3) If the appellant files a statement under paragraph (e)(2) of this section, the Department will clearly annotate the record so that the fact that the record is disputed is apparent to anyone who may subsequently have access to the record. When information that is the subject of a statement of dispute filed by an individual is subsequently disclosed, the Department will note that the information is disputed and provide a copy of the individual's statement. The Department may also include a brief summary of reasons for not amending the record when disclosing disputed information. Copies of the Department's statement shall be treated as part of the individual's record for granting access; however, it will not be subject to amendment by an individual under these regulations.

PART 172—SERVICE OF PROCESS; PRODUCTION OR DISCLOSURE OF OFFICIAL INFORMATION IN RESPONSE TO COURT ORDERS, SUBPOENAS, NOTICES OF DEPOSITIONS, REQUESTS FOR ADMISSIONS, INTERROGATORIES, OR SIMILAR REQUESTS OR DEMANDS IN CONNECTION WITH FEDERAL OR STATE LITIGATION; EXPERT TESTIMONY

Sec.

172.1 Purpose and scope; definitions.

172.2 Service of summonses and complaints.

172.3 Service of subpoenas, court orders, and other demands or requests for official information or action.

172.4 Testimony and production of documents prohibited unless approved by appropriate Department officials.

FOIA GUIDANCE FOR STATE DEPARTMENT EMPLOYEES



For further assistance or questions related to FOIA implementation or specific FOIA/PA requests, call the [FOIA Hotline at 202-261-8484](tel:202-261-8484), x48484 or the number provided on the search request transmittal. Questions about Department FOIA policies may be directed to FOIA Program Team via e-mail to FOIAProgram-DL, or via the FOIA Hotline by asking to speak with the FOIA program manager.

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Background and Purpose

This booklet provides a brief overview of the Department's Freedom of Information Act (FOIA) program and background on the Department's centralized FOIA office - the Office of Information Programs and Services (IPS). It also provides some general information about the FOIA, and some of the Act's important provisions. For additional information, including the text of the FOIA, the Privacy Act, relevant executive orders, and the Department's implementing regulations (22 C.F.R. §171) go to www.foia.state.gov. This site also includes an Electronic Reading Room.

The Freedom of Information Act

The Freedom of Information Act (FOIA), Title 5 of the United States Code, section 552, generally provides that any person has the right to request access to federal agency records or information. Pursuant to the Act, all agencies of the Executive Branch of the U.S. Government are required to disclose records upon receiving a written request, except for those records protected from disclosure by nine exemptions to the statute (see exemptions descriptions on page 6). The Act became law on July 4, 1966. The FOIA defines agency records subject to potential disclosure, and outlines mandatory procedures for processing FOIA requests.

The FOIA defines the agency records that are subject to the Act as all documentary materials that are (1) either created or maintained by an agency, and (2) under agency control at the time of a FOIA request. Records can exist in any form, including correspondence, reports, video and audio recordings, computer files on any medium, email messages and attachments, and relevant information maintained in any other electronic formats. Even official materials that do not qualify as "records" for the purposes of the Department's records management obligations under the Federal Records Act—for example, some FYI emails on which no action is required or taken—nevertheless count as agency records that are subject to the FOIA. Department offices and overseas posts tasked by IPS to search for records need not create new records in response to FOIA requests. By statute, only records that currently exist, including records in electronic formats, are subject to the Act.

Some components of the U.S. Government are not subject to the FOIA. The Act does not apply to records held by Congress, certain offices of the White House whose functions are limited to advising and assisting the President, Vice President and their staffs, federal courts, state or local government agencies, private businesses or individuals. Operational files of some intelligence agencies are also beyond the scope of the FOIA. Individual states have laws governing access to the records of their own state and local governments.

In December 2005, the President signed an Executive Order (13392) on the FOIA entitled *Improving Agency Disclosure of Information*. The Order established the position of agency Chief FOIA Officer – a high-level official responsible for monitoring FOIA administration throughout the agency and for recommending to the head of the agency adjustments to practices and policies that may be necessary to improve FOIA compliance. The Secretary of State appointed the Assistant Secretary for Administration as the Department's Chief FOIA Officer. The Order also required agencies to establish one or more FOIA Requester Service Centers and

FOIA Public Liaisons to assist FOIA requesters with inquiries about the FOIA process in general and their own FOIA requests in particular. The Requester Liaison Division within IPS is the Department's FOIA Requester Service Center, and the chief of this division is the Department's primary FOIA Public Liaison. The Order also required agencies to conduct reviews of their FOIA operations and to develop improvement plans containing concrete milestones and objectives covering fiscal years 2006 – 2008, and to publish the results of these reviews and the improvement plans on agency FOIA websites. In agency annual reports on FOIA implementation to the Department of Justice, agencies were required to report on progress achieving the milestones laid out in their plans. The Department Report and Plan under E.O. 13392 and its FOIA annual reports are posted at www.foia.state.gov.

In December 2007, Congress enacted the Openness Promotes Effectiveness in our National Government Act of 2007, also referred to as the OPEN Government Act of 2007, amending the FOIA. These amendments essentially codified most of the requirements of E.O. 13392 in addition to amending numerous procedural requirements of the Act. In particular, Congress created new and potentially costly penalties that can apply if an agency does not respond to a FOIA request quickly enough or if it improperly withholds information. Congress also imposed significant new statistical reporting requirements, which agencies must include in future FOIA annual reports, aimed at allowing the Congress and the public greater scrutiny of agency FOIA implementation.

In January 2009, President Obama issued a memorandum that all agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government. The presumption of disclosure should be applied to all decisions involving FOIA. In March 2009, the [Attorney General Memorandum on FOIA Guidelines](#) was issued. The Attorney General, in accordance with the January 21, 2009 FOIA Memorandum, rescinded the Attorney General's FOIA Memorandum of October 12, 2001. Instead, the Department of Justice will defend a denial of a FOIA request only if (1) the agency reasonably foresees that disclosure would harm an interest protected by one of the statutory exemptions, or (2) disclosure is prohibited by law.

President Obama's [Open Government Directive](#), issued December 8, 2009, is the culmination of the previous efforts. Agencies must proactively provide the public with new data sets and provide greater transparency via new agency Open Government websites. Furthermore, FOIA backlog reduction must decrease each year by 10%.

The Privacy Act

The Privacy Act of 1974, 5 U.S.C. § 552a, allows United States citizens and permanent resident aliens of the U.S. to request access to records about themselves that are maintained by agencies of the Federal Government in records systems that permit the retrieval of information by name or personal identifier. In some instances, an individual may receive greater access to a record under the Privacy Act than under the FOIA. It is the policy of the Department of State to treat a request from a qualifying individual as being made under both the Privacy Act and the FOIA when appropriate (even if a request does not mention the Privacy Act) in order to provide the maximum access to the requested records. The Department of Justice also requires agencies to

include statistical information on access requests made under the Privacy Act in their FOIA annual reports.

Office of Information Programs and Services (A/GIS/IPS)

Within the Bureau of Administration's Office of Global Information Services is the Office of Information Programs and Services (IPS). The Department's implementation of the FOIA is substantially centralized within IPS. (NOTE: A limited number of Department offices and bureaus review their own records. Such records generally are concerned with specialized and unique activities and programs of the Department rather than with general foreign policy issues. Decentralized records systems include, among other things, personnel, security, medical, and consular records.)

IPS administers the Department's Information Access Program, which includes administering all records access requests made under the FOIA and Privacy Act. IPS coordinates, tracks and reports on responses to all FOIA/PA requests for Department records, including administrative appeals made in connection with such requests, and ensures that responses are timely, accurate, and complete.

IPS receives, acknowledges and assigns control numbers to requests, determines which bureaus, offices, and overseas posts may maintain the requested records, and tasks them to conduct searches in response to requests made in accordance with Department regulations at 22 C.F.R. Part 171. IPS also reviews the records found to determine whether release is appropriate under the FOIA, and responds to administrative appeals and litigation brought under the Freedom of Information and Privacy Acts.

22 C.F.R. Part 171 establishes the access procedures and guidelines for the availability of Department of State information and records under the FOIA and the Privacy Act. A copy of 22 CFR Part 171 is available through the Department's FOIA Reference Guide page at www.foia.state.gov.

Electronic FOIA Amendments of 1996 and the Department's FOIA Website

Congress amended the FOIA in 1996 to, among other things, clarify that the Act encompassed records maintained in electronic form, encourage agencies to disclose records in electronic format when requested to do so, and require agencies to establish "Electronic Reading Room" websites where the public could access certain records created on or after November 1, 1996, as well as any records processed and released under the FOIA that have been or are likely to be the subject of multiple requests.

In terms of the format of disclosure, if the requested records already exist in more than one format, an agency must honor a requester's choice among existing formats unless there would be exceptional practical difficulty in doing so. When a requester asks for disclosure in a new format, an agency must make "reasonable efforts" to provide the records in the format requested when the information is "readily reproducible" that way.

The 1996 amendments also require agencies to make "reasonable efforts" to conduct searches for information maintained in electronic form, except when doing so would "significantly interfere" with the agency's automated system. Electronic searches to gather the specific records or information requested are not considered to be creating new records under the Act. Thus, agencies must make reasonable efforts to retrieve the information sought even if the agency normally does not produce the information that way and the agency must write a simple program to comply with the request.

In addition to previously released records and other publicly available records found in the Electronic Reading Room, the Department's FOIA website at www.foia.state.gov also contains a wealth of information about how to make a FOIA request to the Department. For example, FOIA requests that do not involve records about private individuals can be made directly from the website. Under "FOIA Reference Guide," the website also provides the Department's records disposition schedules and other information to help individuals understand the types of records the Department maintains to help them formulate their requests, the website's "Electronic Reading Room" identifies information that is already available without having to file a FOIA request.

President Obama's *Open Government Directive* created new electronic requirements for FOIA and records. Specifically, agencies must "develop and publish on [their newly created] Open Government Webpage an Open Government Plan" and in general, "publish [their] annual Freedom of Information Act Report in an open format on its Open Government Webpage in addition to any other planned [sic] dissemination methods." This new webpage, allowing greater access to data, takes electronic access to records to an unprecedented level.

The FOIA Process at State

- By regulation, all FOIA requests for Department records must be sent to IPS. Requests must reasonably describe the records sought so that an employee of the Department who is familiar with the subject matter of the request can locate the records requested with a reasonable amount of effort.
- Within IPS, the Requester Liaison Division's Requester Communications Branch (IPS/RL/RC) logs all FOIA and Privacy requests sent to the Department into the FREEDOMS case tracking system. FREEDOMS assigns case control numbers to requests by which the requests will be tracked until completed. Data used in FOIA annual reports are drawn from this system. IPS/RL/RC reviews new requests to determine whether they comply with pertinent statutes and regulations, and whether the information requested is in the Department's possession and control. If a request is deficient (e.g., it does not contain enough details to identify the records sought, does not ask for records in the Department possession and control, or does not include a sufficient fee agreement, etc.), IPS/RL/RC notifies the requester in writing of the deficiencies. Cases involving deficient requests are closed out in FREEDOMS and new cases are opened if the requesters submit requests that contain all of the required information.

- IPS/RL/RC acknowledges all requests by letter or electronic mail advising each requester of the date IPS received the request; the case number assigned to the request; the address, telephone number and email address to which inquiries about the request may be directed; and other pertinent information, such as decisions on requests for fee waiver or expeditious processing. IPS/RL/RC also determines the processing track to which a case will be assigned. The Department employs a multi-track processing system (see “Time Limits” section below). IPS/RL/RC forwards perfected requests to one of three branches within IPS’ Statutory Compliance and Research Division (IPS/CR) for processing.
- Within IPS/CR there are three branches that are distinguished by the regional and functional areas of expertise of the staffs within each branch. IPS/CR branches are comprised of case analysts and reemployed annuitant Foreign Service officer reviewers. IPS/CR determines which offices or overseas posts are expected to maintain the requested records and may seek help in making this determination from the assigned bureau FOIA contact. IPS/CR sends a search/review request transmittal (Form DS-1748) to each search office, which will contain the name and extension of the case analyst assigned to the case, attaching a copy of the request. Overseas posts are tasked to search via telegram from IPS. When an office or post receives a search/review tasking, it must search for and produce copies (in paper form) of all responsive material. (NOTE: Unless the records are already available to the public on CD, offices should not/not forward responsive records on CD. This is because the case tracking system employed by the Department at present requires that documents be imaged from the paper version of the record.) (See “Search Guidelines for All Department Offices” section on pp. 7-9 for more information on search requirements.)
- When the search has been completed, the individual conducting the search completes the search portion of the DS-1748, including the amount of time spent searching and the individual’s grade level (so that fees may be assessed where applicable), the date the search was initiated, and the searcher’s signature and date signed. Any helpful comments or background with regard to sensitivities in the documents that the reviewer should be aware of can be recorded in the Comments section of the Form or in an attachment. Also, offices should inform IPS if they are aware of additional bureaus, offices, or records systems in the Department that would have a reasonable possibility of containing responsive records.
- IPS/CR conducts searches of the State Archiving System (the Department’s corporate archive) and of retired office and post files. Because of the many ways offices and posts often describe their retired files in retired records manifests (Form DS-693), IPS/CR may seek the assistance of the entity that retired the records to identify responsive retired records.
- IPS/CR conducts a two-tiered, often line-by-line review of any records found to determine their relevance to the request, and whether any part of them may be released to the requester. (IPS reviewers are retired Foreign Service officers who have been certified by at least two bureaus -- though many have certifications from three or more -- as experts in specific functions and geographic regions. They are also experts on FOIA exemptions,

and regularly consult with bureaus and offices regarding sensitive issues and classification, particularly with regard to records of recent origin or ongoing sensitivity.) Once documents are determined to be releasable in full or in part, IPS/CR provides them to the requester, along with an explanation of the specific exemptions applied to denied material and the amount of material denied.

- A small number of authorized offices and bureaus within the Department review their own documents for disclosure (i.e., DS, OIG, CA/PPT, CA/OCS, CA/VO, MED and HR). These “decentralized” offices must forward any FOIA or Privacy Act requests for Department records that they receive directly from a requester to IPS/RL/RC so that the request can be logged into FREEDOMS and assigned a case tracking number, and so that information that the Department must include in its FOIA annual report can be recorded. These offices also must forward to IPS/CR copies of the Release/Denial (R/D) letter to the requester and responsive documents. This allows IPS to record in FREEDOMS the amount of material retrieved, the number of documents withheld on a particular exemption in full or in part, the name of the denial authority and date of the denial letter, as appropriate, and to keep them in the official case file in the event of an appeal or a lawsuit, and to post appropriate released material in the Electronic Reading Room. The only time a “decentralized” office may be excused from sending IPS copies of all responsive documents, including released in full, denied in full and unexcised versions of denied in part documents, is when they maintain copies of this material in accordance with records disposition schedules (a minimum of six years after the last action taken by the Department in the case), and provide a detailed document list containing the above information to allow IPS to record it.
- The Department processes requests in segments, i.e., as soon as material has been retrieved and reviewed. Frequently, in cases involving valid FOIA requests submitted to the Department, multiple responses will be sent to a requester on a rolling basis. Depending on the volume of records, the complexity of the search, and/or the sensitivity of the subject matter, some requests will require additional time to complete. In such cases, the requester should be contacted to verify the request is being correctly interpreted or to negotiate narrowing the scope of the request to facilitate processing. To contact IPS/CR about a specific request, call the case analyst whose name and number appear at the top of the DS-1748, or the FOIA Hotline at x4-8484. Offices should coordinate with IPS prior to any direct communications with a FOIA requester. Information within a record or an entire record may be withheld on one or more of the following exemptions by a competent review authority.

FOIA Exemptions

- (b)(1) information currently and properly classified in the interest of national defense or foreign relations;
- (b)(2) information relating solely to internal personnel rules and practices of an agency, including trivial administrative matters and material whose release would allow circumvention of the law;
- (b)(3) information that is prohibited from disclosure by a qualifying federal law;

- (b)(4) trade secrets and other confidential business information;
- (b)(5) inter-agency or intra-agency communications that are protected by legal privileges, including pre-decisional deliberative process material, attorney-client privileged material, and attorney work product;
- (b)(6) information whose disclosure would be a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, to the extent that the production of those records:
 - (A) could reasonably be expected to interfere with enforcement proceedings,
 - (B) would deprive a person of a right to a fair trial or an impartial adjudication,
 - (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy,
 - (D) could reasonably be expected to disclose the identity of a confidential source,
 - (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or
 - (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) information relating to the supervision of financial institutions; and
- (b)(9) geological information on wells.

Time Limits

In general, the Department processes requests on a first-in, first-out basis within the processing track to which they are assigned (described below). Requests will be taken out of order and given expedited treatment whenever requesters can demonstrate that a compelling need for the information exists. IPS notifies offices and overseas posts tasked to search for records when a request has been granted expeditious processing and, therefore, must be processed ahead of all other requests, except for those other requests already determined to warrant expedition. (See the Department's regulations at 22 CFR §171.12(b) for expeditious processing criteria).

If a request presents unusual circumstances – such as the volume of the records sought or the need to search outside of IPS – IPS will notify the requester that the Department will require additional time to process the request, and offer the requester an opportunity to limit the scope of the request in order to shorten the processing time.

In general, a request in the Simple/Fast Track requires no searches outside of IPS (e.g., all responsive records are located in the State Archiving System or the documents were referred to the Department by another agency), no external coordination with other offices or agencies is required, and the volume of responsive material is reasonable (i.e., it can be reviewed in a week or less). Requests in the Routine/Complex Track require either searches of more than one records source or external coordination, or contain voluminous amounts of or highly sensitive records. Requests in the Expedite Track are those in which a requester has demonstrated the request meets the requirements of the Department's published regulations at 22 CFR §171.12(b) and L/M has approved the decision to expedite, or the referring agency has expedited it under its own regulations.

Offices and posts should make every effort to meet the statutory time requirements established to respond to requests. The time requirement established in the FOIA guidelines is 20 business days. However, “unusual” circumstances can increase the time needed to process requests up to ten additional days. (“Unusual circumstances” occur when the requested records must be retrieved from offices or posts other than IPS; when the request involves a voluminous amount of records; or when there is a need to consult with another agency or government during the review process. If a FOIA issue enters litigation, a court may allow additional time in “exceptional circumstances.”)

The OPEN Government Act of 2007 amended the FOIA’s fee provisions to preclude agencies from assessing processing fees where they might otherwise have been assessed if the agency fails to comply with FOIA time limits and no “unusual” or “exceptional circumstances” apply to the processing of the request.

Since the majority of requests involve searches by other bureaus, offices and/or overseas posts, it is important that bureaus, offices, and posts conduct their searches in as timely a manner as possible. If a delay in responding is anticipated, the searching bureau, office or post should notify IPS of the reason for the delay. This allows IPS to better handle status inquiries from requesters as well as to determine whether the requester should be contacted in order to renegotiate the scope of the request to facilitate its timely completion.

Search Guidelines for All Department Offices

Cut-Off Date: Unless the requester specifies a time frame for the requested records, the cut-off date for responsive records is the date the office’s search is initiated.

Records Retention: Department offices cannot destroy records that are responsive to a pending FOIA request.

Adequacy of Search: To ensure that searches for records meet legal requirements for search adequacy, 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, e-mail (including e-mail in personal folders and attachments to e-mail), 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. It is critical that offices read each request closely to discern what records it seeks. The Department must search all places reasonably expected to contain responsive records.

Although a FOIA request may be invalid if it is not possible to identify which records are within its scope, a request cannot generally be deemed invalid on the grounds that the search required would be burdensome.

In searching for electronically stored records, Department employees must make “reasonable efforts” to locate requested records “except when such efforts significantly interfere with the operation of the agency’s automated information system.” The courts have set the standard high

for agencies that refuse to search due to significant interference with an automated information system. Bureaus, offices or posts should consult with IPS and the Office of the Legal Adviser (L/M) before refusing to conduct a search on this basis. The methods used for the research and production of records in electronic format must be capable of locating all responsive records contained within the electronic records system.

What to Provide: An office's response should include (printed) copies of all responsive documents yielded in the search, regardless of classification, distribution restrictions, or other disclosure concerns. You should not produce documents that are not responsive to the specific request. At present, IPS is not able to accept material for review on compact discs because the case tracking system is only set up to image paper records. Therefore, unless the records are already available to the public on CD, offices should not/not forward responsive records on CD at this time and instead should print the material out on paper before transmitting it to IPS. The documents you produce will then be reviewed line-by-line by the Department's FOIA reviewers to determine whether there are grounds to withhold all or part of the material in them from release (e.g. privilege, privacy, or classification).

No Need to Provide Exact Duplicates: Under the FOIA, agencies are not required to produce multiple copies of the same document. However, individuals conducting searches should ensure that only an exact duplicate of a responsive document being produced is excluded. Various versions of the same document that are not exact duplicates, e.g., drafts, or versions containing handwritten marginalia or markings, all must be produced to IPS (even though such material may ultimately be withheld from public disclosure). Because IPS conducts searches of the State Archiving System, offices and posts do not have to produce copies of cables unless they:

- contain marginal notes
- are classified Top Secret
- are special channel or special captioned cables
- originated with other agencies, or
- were sent post-to-post and not sent to the Department

Offices are encouraged to identify responsive cables for IPS so that IPS will be sure to retrieve them from the State Archiving System.

Retired Files: For any responsive material that has been retired, the individual conducting the search should provide either a copy of the bureau/office retired records manifest (Form DS-693) indicating which files contain responsive material, or just the lot and box numbers and file descriptions. IPS will retrieve the retired files and conduct the search.

For More Information: The Freedom of Information Action cover sheet attached to all search request transmittals (Form DS-1748) contains complete details about the guidance for conducting searches in response to information requests. When your office receives a search request, please review the information on the reverse side of the cover sheet to ensure your office's compliance with all of the search guidelines. If no cover sheet is attached, please request one from the analyst whose name appears on the search request transmittal (Form DS-1748).

Specific questions about requests should be directed to the analyst whose name appears on the search request transmittal (Form DS-1748), the CR Branch Chief whose branch sent the search request transmittal (indicated by the symbols CR/EAN, CR/MPD or CR/WEP), or to the CR Division Chief. To contact these individuals, call the FOIA Hotline at 4-8484 and ask for the number of the pertinent branch or division chief.

Submitting a FOIA or Privacy Act Request to the Department of State

Consistent with 22 CFR §171, A/GIS/IPS receives incoming FOIA and Privacy Act requests for Department records. Bureaus, offices and posts that receive FOIA or Privacy Act requests directly from the requesters should forward the requests to IPS/RL at the address below, refer the requesters to the Department's FOIA website (www.foia.state.gov), or provide the following information to the requesters. Requesters can submit requests by mail, fax, in person, or through our electronic [FOIA Request Letter Generator](#), found on our FOIA website. *Please note, FOIA and Privacy Act requests cannot be accepted by e-mail at this time.*

Currently, the Department cannot receive Privacy Act requests or FOIA requests for personal records without either an original notarized signature or signature with an under penalty of perjury statement.

Address –
Office of Information Programs and Services
A/GIS/IPS/RL
U. S. Department of State
Washington, D. C. 20522-8100
Re: Freedom of Information Act Request

Phone number – 202-261-8484
Fax number - 202-261-8582

E-mail – Please email your questions and concerns related to submitting requests to FOIAPROGRAM-DL@state.gov

- FOIA requests must be in writing. There is no special format or form needed for making a request.
- Requests must contain an agreement to pay applicable fees, or provide sufficient justification to warrant a fee waiver. To ensure that a request is not rejected due to a fee related issue, requesters seeking fee waivers should also state how much they are willing to pay in the event their fee waiver is denied.
- The records requested must be described as clearly and precisely as possible and include, at a minimum, a time frame for the requested records, a specific subject matter of the records, and, if possible, the originating office or post. If the request is vague or too broad, we may ask the requester to be more specific, which can delay the processing of a request.

- Requests should be as specific as possible with regard to names, titles, dates, places, events, subjects, the components likely to maintain the records, and any other information that can be provided.
- To protect individual privacy and to provide the greatest access possible to the records requested, whenever records about an individual are requested (unless the topic is already in the public domain or concerns the individual's service with the U.S. Government), requesters should provide either a notarized statement or a statement signed under penalty of perjury stating that they are who they say they are, or Third Party Authorization from the subject of the request when the requested records are about someone other than the person making the request. If such authorization cannot or will not be provided, the request should make this situation clear.
- Anyone requesting records about deceased individuals must submit Proof of Death unless sufficient time has passed that it can be reasonably assumed that the individual is deceased, i.e., more than 100 years from the subject individual's date of birth.

Appeals and Litigation

Requesters can appeal any adverse determination. They can also sue the Department if they believe their requests were not processed timely, properly or completely, including if they believe records searches were not adequate. For litigation and appeals cases, IPS may contact the offices that conducted searches and request details regarding search procedures used to locate records.

With the exception of denial of fee waiver and expeditious handling issues, IPS' Information Life-Cycle Management Branch (IPS/PP/LC) within the Programs and Policies Division handles FOIA/PA Appeals and Litigation matters. PP/LC also is responsible for outreach to Department personnel to make them aware of the Department's current policies, standards and guidelines. To contact PP/LC regarding these issues, send an email to the FOIAProgram-DL@state.gov or call the FOIA Program Manager in PP/LC at 202-261-8359.

Appeals other than in response to a denial of fee waiver or expeditious handling may be sent to the *Chairman, Appeals Review Board, c/o Information and Privacy Coordinator/Appeals Officer, U.S. Department of State, A/GIS/IPS/PP, SA-2, Washington, DC 20522-8100.*

Fees

By making a FOIA request, a requester is considered to have agreed to pay applicable fees up to \$25. Because requests for contracts generally come from commercial requesters who pay for all search, review and copy costs, requesters asking for copies of contracts must state a willingness to pay a minimum of \$300 per contract.

For the purpose of assessing fees, the FOIA divides requesters into the following fee categories:

Commercial use – requesters pay standard charges for search time, per-page copy costs for all released material and review time.

Educational or non-commercial scientific institutions and representatives of the news media – requesters pay per-page copy costs for released material in excess of one hundred pages (the first one hundred pages are free).

Other – requesters who do not fall into the above categories pay standard charges for search time in excess of the first two hours, and per-page copy costs for any additional released material after the first one hundred pages.

No Fees for Privacy Act Requests – the Department does not assess fees for records requested under the Privacy Act.

The Department of State charges \$.15 per page for photocopying of any records released to the requester. (Photocopying for internal Department processing and review cannot be billed to the requester.) In all cases, if the total fee does not exceed the cost to the government of processing a payment check, the Department will not charge any fee.

The Department assesses search and review time according to the average salary rates (plus benefits) of the individuals conducting the search or review within broad categories of personnel (i.e., “administrative/clerical,” “professional,” and “executive”). Current rates are posted on the Department’s FOIA website (www.foia.state.gov).

Fee Waivers: The FOIA permits agencies to furnish documents without charge or at a reduced rate if the disclosure of the requested information would be in the public interest and the information is not primarily in the commercial interest of the requester. For more information on fee waivers, see 22 CFR §171.17 or the FOIA Reference Guide at www.foia.state.gov.

Denial of fee waiver or expeditious handling: Appeals of the denial of fee waiver or expeditious processing should be directed to: *Chief, Requester Liaison Division, c/o Information and Privacy Coordinator, U.S. Department of State, A/GIS/IPS/RL, SA-2, Washington, DC 20522-8100.*

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I. Introduction

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The Electronic Freedom of Information Act Amendments of 1996 (E-FOIA) was signed into law on October 2, 1996. The amendments require agencies to prepare a guide for requesting access to information maintained by the appropriate agency.

On December 14, 2005 President George W. Bush issued Executive Order 13392, part of which required each agency to provide a plan for improving the implementation of the Freedom of Information Act (FOIA). The Department of State's plan, entitled "Review of Department FOIA Operations and Plan for Improvement" lists a number of milestones for improving the Department's FOIA operations. One of these milestones requires the Department to consolidate information on requesting access to Department of State records into a single document.

Consistent with these requirements, the Office of Information Programs and Services (IPS) has prepared this guide for requesting Department of State records. These guidelines, along with Title 22 Code of Federal Regulations (CFR), part 171 [§](#), will provide all of the necessary information needed to file a request for access to Department of State records.

II. Freedom of Information Act (FOIA)

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The Freedom of Information Act (FOIA) is found in Title 5 of the United States Code, Section 552.

- The Freedom of Information Act (FOIA) generally provides that any person has the right to request access to federal agency records or information except to the extent the records are protected from disclosure by any of nine exemptions contained in the law or by one of three special law enforcement record exclusions.
- The FOIA applies only to federal agencies and does not create a right of access to records held by Congress, the courts, or by state or local government agencies.
- The FOIA does not require agencies to do research for you, answer written questions, or in any other way create records (such as lists or statistics) in order to respond to a request.

1. General

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- The FOIA does not require agencies to do research for you, answer written questions, or in any other way create records (such as lists or statistics) in order to respond to a request.

2. FOIA Exemptions

The nine exemption categories that authorize government agencies to withhold information are:

1. classified information for national defense or foreign policy;
2. internal personnel rules and practices;
3. information that is exempt under other laws;
4. trade secrets and confidential business information;
5. inter-agency or intra-agency memoranda or letters that are protected by legal privileges;
6. personnel and medical files;
7. law enforcement records or information;
8. information concerning bank supervision; and
9. geological and geophysical information.

FOIA Exclusions

Congress provided special protection in the FOIA for three narrow categories of law enforcement and national security records. The provisions protecting those records are known as "exclusions". The first exclusion protects the existence of an ongoing criminal law enforcement investigation when the subject of the investigation is unaware that it is pending and disclosure could reasonably be expected to interfere with enforcement proceedings. The second exclusion is limited to criminal law enforcement agencies and protects the existence of informant records when the informant's status has not been officially confirmed. The third exclusion is limited to the FBI and protects the existence of foreign intelligence or counterintelligence, or international terrorism records when the existence of such records is classified. Records falling within exclusion are not subject to the requirements of the FOIA. See 5 U.S.C. §§ 552(c)(1), (c)(2) & (c)(3).

3. Administrative Rulings, Policy Statements, and Other Publications

Subsection (a)(2) of the FOIA requires that certain types of records -- final agency opinions and orders rendered in the adjudication of cases, specific policy statements, certain administrative staff manuals, and some records previously processed for disclosure under the Act -- be routinely made "available for public inspection and copying." This was commonly referred to as the "Reading Room" provision. You may access these records by visiting the Department's Administrative Rulings, Policy Statements, and Other Publications.

III. Department of State Records

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The Department of State maintains records dealing with:

1. The formulation and execution of U.S. Foreign policy
2. The administration and operations of the Department of State and U.S. missions abroad
3. Applications from U.S. citizens for U.S. passports
4. Visa requests from non-citizens to enter the U.S.
5. Consular assistance given to U.S. citizens abroad
6. Current and former employees of the Department of State

For more information on the organization and responsibility of the Department of State, go to [Department Organization](#).

1. Records Maintained by the Department of State

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2. Records Available Without Making a FOIA Request

Before submitting a request for Department of State records, you may wish to search through the Department's FOIA website and the websites of the offices and bureaus within the Department of State.

Information available on the Department's website includes:

1. Frequently requested documents released under the FOIA.
2. Declassified/Released Document Collections.
3. Special records collections of continuing public interest.
4. Regulations, policy statements, administrative rulings and manuals, and other reference materials.
5. The Department of State's [Annual FOIA Reports](#).
6. Major Department of State Publications, including Country Reports, Human Rights Reports, and Trafficking in Persons Reports.
7. Foreign Relations of the United States (FRUS) series.

Most offices or bureaus within the Department of State maintain their own websites and post releases electronically, including reports, background notes, remarks and fact sheets. A list of the offices and bureaus within the Department is available in the [Alphabetical List of Bureaus and Offices](#).

3. Records Available at the National Archives

In general, permanent records 25 years and older, pre-1925 passport and pre-1940 visa records are property of the National Archives and Records Administration (NARA). For information on how to locate Department of State Records at the National Archives go to [State Department Records in the National Archives](#).

IV. Requesting Information under the Freedom of Information Act (FOIA)

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The access procedures and guidelines for the availability of Department of State records and information to the public are recorded in 22 Code of Federal Regulations (CFR) 171. A copy of 22 CFR 171 can be found on the Department's FOIA website.

1. Where to Make a FOIA Request

You can submit your request by mail, fax, or [Electronic Submission](#).

Fax

(202) 261-8579

Address

Office of Information Programs and Services
A/GIS/IPS/RL
Department of State, SA-2
Washington, DC 20522-8100

Re: Freedom of Information Act Request

2. How to Make a FOIA Request

1. There are no special forms needed for making a request but your request must be made in writing. You may use a plain sheet of paper or your letterhead.
2. Determine whether the information you are looking for is with the Department of State.
3. Provide us with your full name, current address, telephone number, and (if you would like) your email address.
4. Write down what information you are seeking with as much detail as possible to help us locate the requested document(s).
Please note: the FOIA does not require agencies to do research for you, answer written questions, or in any other way create records (such as lists or statistics) in order to respond to a request.
5. Determine your fee category. For purposes of fees only, requesters are divided into general categories. Go to [Requester Categories](#) for more information.

6. State the amount that you are willing to pay for your request. Since there may be fees associated with the processing of your request, please indicate how much you are willing to pay. If you are asking the Department to consider reducing or waiving the fees associated with the processing of your request, please explain the reasons why your request should be granted a fee waiver.
7. By making a FOIA request, the requester shall be considered to have agreed to pay all applicable fees up to \$25.00 unless a fee waiver has been granted.
8. If you are requesting a copy of a Department of State contract, please provide us with as much information that you have to enable us to conduct an adequate search, such as contract or solicitation number, name of the company awarded the contract, approximate date of the contract, etc.

The following information will assist us in conducting a search:

- Type of record;
- Timeframe of record (when was the record created);
- Specific subject matter, country, person and/or organization;
- Offices or consulates originating or receiving the record;
- Particular event, policy or circumstance that led to the creation of the record;
- Reason why you believe the record exists;
- If requesting information involving a contract with the Department of State, the contract number, approximate date, type of contract, and name of contractor.

If you are requesting personal information on yourself or on behalf of someone else, please see additional guidance in the Requesting Personal Information under the FOIA and Requesting Personal Records under the Privacy Act sections.

3. What Happens After You Make a Request

The Department of State will make every attempt to meet the statutory time requirements to respond to your request. Please be aware that the Department's physical facilities consist of over 250 embassies, consulates, and diplomatic missions in virtually every country in the world, numerous offices in and around the Washington, D.C. area, and a number of field offices throughout the United States. Many of the Freedom of Information Act (FOIA) and Privacy Act (PA) requests processed by the Department (even if limited to a single topic) regularly necessitate searches in multiple locations within the Department's hundreds of domestic and overseas facilities.

- The Department's initial response will advise you of the case number assigned to your request and how to contact the Department should you have any questions about the processing of your request. If you have submitted an invalid request (usually because of missing information), you will be informed of what you need to submit to the Department to validate your request.
- Fees are generally assessed by the Department at the conclusion of processing a request.
- Some requests, depending on the volume of records, the complexity of the search, and/or the sensitivity of the subject matter, will require additional time to complete. If a request presents unusual circumstances -- such as the volume of the records sought -- you may be notified and offered an opportunity to limit the scope of your request in order to facilitate its processing. For the latest statistics regarding the average time it takes to process a FOIA request, go to the most recent **Department of State FOIA Annual Report**.
- Once your request is perfected, the Department will search for and retrieve material that is responsive to your request. Many FOIA/PA requests to the Department require searches of multiple records systems, offices and/or overseas posts. For more information on how Department of State Records is organized, go to the **Records Management** page under Learn.
- In general, requests are handled in the order in which they are received. The Department of State does, however, have a "multi-track" response system to facilitate the processing of simpler requests, rather than putting all requests in a single "queue." However, we usually do not know the number and complexity of responsive records until all searches have been returned. Similarly, until we have had the opportunity to review the records we will not know how much consultation with other offices or agencies is necessary. Thus, requests can move between tracks. For more on multi-track processing, go to **22 CFR 171.12(e)**.
- After the search is completed, the Department must examine each record to determine whether, and to what extent the record is responsive to the FOIA request and the extent to which it may be disclosed. This often requires the Office of Information Programs and Services (IPS) to consult with the offices and bureaus within the Department and other federal agencies.
- You will receive a substantive response when your request is fulfilled, denied in part or denied in full. The Department provides interim responses in FOIA cases instead of waiting until all processing is completed. Therefore, you may receive more than one substantive response on a rolling basis.
- Many Department documents require special handling because they are classified and their release could harm national security and foreign relations or may result in the unwarranted invasion of personal privacy or other third-party interest. Additionally, a high proportion of documents contain equities of other agencies and governments that may require their clearance before release.
- It is the Department of State's policy to release information to the maximum extent possible. If some information must be removed from a record which is released in part, the amount of information removed will be indicated at the place where the deletion is made. You will be notified of the number of documents withheld in full, if any. For all information withheld, in full or in part, you will be notified of the basis for withholding and provided instructions on how to appeal the Department's decision.
- Once your case is completed, the Department will assess the fees accrued during its processing, and you will be notified in writing of any payment that you may owe.

If you have any questions regarding the status of a request, you may contact the FOIA Requester Service Center at (202) 261-8484.

4. Expedited Handling

Requests and appeals shall be taken out of order and given expedited treatment whenever a requester has demonstrated that there exists a "compelling need" for the information.

A "compelling need" is deemed to exist where the requester can demonstrate one of the following:

1. Failure to obtain requested information on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.
2. Substantial due process rights of the requester would be impaired by the failure to process immediately. In most cases, a request will not be expedited merely on the basis that the requester is facing a court deadline in a judicial proceeding.
3. Substantial humanitarian concerns would be harmed by the failure to process immediately.

4. The information is urgently needed by an individual primarily engaged in publicizing information in order to inform the public.

4. The information is urgently needed by an individual primarily engaged in publicizing information in order to inform the public concerning actual or alleged government activity. News media requesters would normally qualify; however, other persons must demonstrate that their primary activity involves publishing or otherwise disseminating information to the public, not just a particular segment or group.
 1. Urgently needed means that the information has a particular value that will be lost if not distributed quickly. Ordinarily this means a breaking news story of general public interest. Information of historical interest only, or information sought for litigation or commercial activities would not qualify, nor would a news media publication or broadcast deadline unrelated to the breaking nature of the story.
 2. Actual or alleged Federal Government activity means the information concerns some actions taken, contemplated, or alleged by or about the government of the United States, or one of its components or agencies, including the Congress.

A request for expedited processing must be accompanied by a statement setting forth the reasons why your request should be expedited. For more on Expeditious Handling, go to 22 CFR 171.12(b).

v. Requesting Personal Records under the FOIA

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In order to protect your privacy as well as the privacy of others, you will need to provide us with either a notarized statement or a statement signed under penalty of perjury stating that you are the person that you say you are. If you are signing under penalty of perjury, your request must be **dated** and must have your **signature** with the following statement:

"I [declare, certify, verify, or state] under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct."

Please note: we do not accept Form [DS 5505 Authorization for Release of Information Under the Privacy Act](#). We also do not accept Department of Justice or Department of Homeland Security forms.

1. General

In order to protect your privacy as well as the privacy of others, you will need to provide us with either a notarized statement or a statement signed under penalty of perjury stating that you are the person that you say you are. If you are signing under penalty of perjury, your request must be **dated** and must have your **signature** with the following statement:

"I [declare, certify, verify, or state] under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct."

Please note: we do not accept Form [DS 5505 Authorization for Release of Information Under the Privacy Act](#). We also do not accept Department of Justice or Department of Homeland Security forms.

2. Types of Personal Records Maintained by the U.S. Department of State

The Department of State maintains the following personal records:

- Applications from U.S. citizens for U.S. passports
- Visa requests from non-citizens to enter the U.S.
- Personal correspondence with U.S. Embassies, Consulates, and Missions abroad
- Employment records of current and former employees of the Department of State

In general, pre-1925 passport and pre-1940 visa records are with the National Archives and Records Administration (NARA).

For more information on Department of State records maintained on individuals, go to the [Privacy Act page](#).

If you would like copies of the following:

- Birth certificate abroad
- Marriage certificate abroad
- Death certificate abroad

Write to:
 Passport Services
 Vital Records Section
 1111 19th Street, NW, Suite 510
 Washington, DC 20522-1705

3. Making a Request for Your Own Records

1. Determine whether the information you are looking for is with the Department of State. For more information on the types of records maintained by the Department of State, go to [About Department of State Records](#).
2. There are no special forms for making a request for personal information. You may use a plain sheet of paper or your letterhead. Please note: we do not accept Form DS 5505 Authorization for Release of Information Under the Privacy Act. We also do not accept Department of Justice or Department of Homeland Security forms.
3. Write down what information you are looking for with as much detail as possible to help us locate the information. Do not write your request in the form of a question but clearly state what records you are requesting.
4. Please provide the following information:
 1. Your full name, including distinguishing information (such as Dr., Jr., Sr., III), and any aliases or other names used (such as maiden name);
 2. Your present mailing address;

3. Your date and place of birth;
 4. Types of records sought;
 5. Timeframe of record;
 6. Specific subject matter, country and/or organization;
 7. The offices or consulates originating or receiving the record;
 8. The particular event, policy, or circumstance that led to the creation of the record;
 9. The reason you believe that the record exists within the Department of State and not another government agency;
 10. Your signature, as discussed above; and
 11. Any other information that might help in identifying the record.
5. Your signature and a statement that you are the individual who is the subject of the requested records are required. Your signature must be dated and either notarized or submitted under penalty of perjury by adding the following:
"I [declare, certify, verify, or state] under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct."
6. Send your request to the following:
Office of Information Programs and Services
A/GIS/IPS/RL
U. S. Department of State, SA-2
Washington, D. C. 20522-8100
- Facsimile: (202) 261-8579

Please write "Freedom of Information Act/Privacy Act Request" on the envelope or the subject line of your fax.

4. Access to Someone Else's Records

If you would like to request personal information about another individual or if you are requesting personal records on behalf of someone else, you should provide the following:

1. Written consent from the individual whose records are being requested. Please provide a signed, notarized statement from the individual(s), authorizing the Department of State to release information to you. If you provide authorization, your request will be processed with the greatest possible access. If you do not or are unable to provide authorization, your request will be processed, but release of records will be severely restricted to protect the privacy of another individual.

The authorization should bear the signature of the individual and seal of the notary and be dated within six months of the date of the request. If notarization is not possible, the individual(s) whose records are being requested may give authorization under penalty of perjury. The penalty of perjury statement must be mailed or faxed to us with a current date and a signature.

You may submit the authorization on your letterhead or plain paper but **DO NOT submit Third Party Authorizations on the Department of Justice or U.S. Citizenship and Immigration Services forms**. Those forms only authorize the release of records from their respective agencies, not the Department of State. If you cannot provide the authorization please state so; note, however, that the possibility of obtaining documents will be severely restricted as a result. **For more information, please see the information sheet on [Authorization for the Release of Records to Another Individual](#).**

5. Determine your Fee Category
6. State the maximum amount of fees that you are willing to pay. By making a FOIA request, you shall be considered to have agreed to pay all applicable fees up to \$25, unless otherwise noted.
For more information, go to [Authorization for the Release of Records to Another Individual](#).

Please Note:

In general, under the provisions of the FOIA and Privacy Act, access to information about private individuals cannot be given to unauthorized third parties absent the individuals' written consent. The Department of State **can and will** process requests without consent, but release of records will be severely limited to protect the privacy of the subject individuals.

7. U.S. Passport Records

If you are requesting U.S. Passport Records, you may request the information from the Office of Information Programs and Services or you may go directly to Passport Services. Please note that, while you may receive a quicker response if you go directly to Passport Services, you may be charged additional fees, and it will not be processed under the Freedom of Information Act or Privacy Act. To learn more about obtaining passport records directly from Passport Services, go to the Bureau of Consular Affairs' page [Obtain Copies of Passport Records](#).

The following information assists us in searching for your passport records:

1. Name the passport was issued under;
2. Date and place of birth of individual;
3. Additional comments to help locate the record.

8. Visa Records

You are encouraged to review the checklists designed to help requesters provide all necessary information when first submitting a request: [Checklist for Personal Records](#), [Checklist for Non-Immigrant Visa Records](#), and [Checklist for Immigrant Visa Records](#). Another useful new resource is an information sheet, [Authorization for the Release of Records to Another Individual](#), to assist requesters who wish to allow us to release records with information about them to another individual (also known as "third party" requests).

The following information should be provided with your request:

1. Full Name (surname(s), given name(s), other distinguishing information (such as Jr., Sr., III), and any aliases or other names used);

2. Date and place of birth (city, state, country);
3. Visa type (immigrant/non-immigrant, and specific type of visa within these broad categories);
4. Location of embassy/consulate where visa was issued/denied/pending;
5. Case number or Receipt number if the case number is not known (this is for immigrant visas only);
6. Whether the visa was issued or denied, and date of such action (if unknown, please provide an approximate range of dates);
7. What specific documents are requested;
8. Additional comments to help locate the record.

Please Note:

- If you are requesting information concerning the application of an immigrant visa, you should provide personal verification from the petitioner and all beneficiaries and a statement from the petitioner and all beneficiaries authorizing you to receive their personal information. This statement must have a signature and be dated and either notarized or submitted under penalty of perjury.
- Inquiries on visa cases in progress overseas should be made to the appropriate **U.S. Embassy or Consulate** handling your case. For a listing of U.S. Embassies and Consulates, go to <http://www.usembassy.gov/>.
- Immigration records for individuals who already immigrated to the United States and have been issued a permanent resident alien card, also known as a "green card," are with the **Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS)**.
- Section (b)(3) of the Freedom of Information Act exempts from disclosure those agency records that are otherwise protected from release by federal statutes other than the FOIA. One such statute is section 222(f) of the Immigration and Nationality Act (8 USC, section 1202 (f)), which renders confidential those records of the Department of State pertaining to the issuance or refusal of visas or permits to enter the United States. As a result, you should be aware that Department of State visa records are generally exempt from disclosure under the (b)(3) exemption to the FOIA. This is the case regardless of whether the requester is a third party or the visa applicant him/herself, and regardless of whether the visa applicant has authorized the FOIA request. This exemption also applies if the subject is deceased.

Visa Records Contact Information

Please see below for the most likely location for information relating to visa matters. Please note: U.S. Embassies and Consulates do not accept FOIA or Privacy Act requests. All requests for Department of State visa records should be sent to the Office of Information Programs and Services.

Requested Information	Contact
<ul style="list-style-type: none"> ▪ Inquiries into visa cases in progress overseas 	The U.S. Embassy or Consulate handling the case.
<ul style="list-style-type: none"> ▪ Visa denials ▪ Non-immigration visa records ▪ Immigrant visa inquiries ▪ Correspondence to and from an overseas post 	Office of Information Programs and Services A/GIS/IPS U.S. Department of State, SA-2 Washington, DC 20522-8100
<ul style="list-style-type: none"> ▪ Correspondence to or from the National Visa Center ▪ Civil documents presented by petitioner 	National Visa Center Attention: Written Correspondence 32 Rochester Avenue Portsmouth, NH 03801-2909
<ul style="list-style-type: none"> ▪ Immigration records for permanent resident aliens ▪ Alien Files ▪ Copy of visa approval notice ▪ Authorization of permission to work in the U.S. ▪ Adjudication of: <ul style="list-style-type: none"> ▪ immigrant visa petitions ▪ naturalization petitions ▪ asylum and refugee applications 	U.S. Citizenship and Immigration Services National Records Center, FOIA/PA Office P.O. Box 648010 Lee's Summit, MO 64064-8010
<ul style="list-style-type: none"> ▪ Visa records from 1910-1940 	Archives II Reference Branch (RD-DC), Room 2400 National Archives at College Park 8601 Adelphi Road College Park, MD 20740-6001

9. Deceased Persons

For deceased individuals, unless the death has been widely reported, please provide proof of death, e.g., a newspaper obituary or a copy of a death certificate, or advise us that none will be forthcoming. You should also provide the person's date and place of birth. Please explain the type of material you seek and why you think that the Department of State would have records. Your request will be processed under provisions of the FOIA.

vi. Requesting Personal Records under the Privacy Act

Top

The Privacy Act provides safeguards against invasion of personal privacy through the misuse of records by Federal Agencies. The Act was passed in 1974 to establish controls over what personal information is collected, maintained, used and disseminated by agencies in the executive branch of the Federal Government.

The Privacy Act guarantees three primary rights:

1. The right to see records about oneself, subject to Privacy Act exemptions;
2. The right to request the amendment of records that are not accurate, relevant, timely or complete; and
3. The right of individuals to be protected against unwarranted invasion of their privacy resulting from the collection, maintenance, use, and disclosure of personal information.

1. General

The Privacy Act provides safeguards against invasion of personal privacy through the misuse of records by Federal Agencies. The Act was passed in 1974 to establish controls over what personal information is collected, maintained, used and disseminated by agencies in the executive branch of the Federal Government.

The Privacy Act guarantees three primary rights:

1. The right to see records about oneself, subject to Privacy Act exemptions;
2. The right to request the amendment of records that are not accurate, relevant, timely or complete; and
3. The right of individuals to be protected against unwarranted invasion of their privacy resulting from the collection, maintenance, use, and disclosure of personal information.

2. Filing a Privacy Act Request

The procedures for filing a Privacy Act request for personal records maintained by the Department of State are the same as those described under [Requesting Personal Records under the FOIA](#) in this guide with the following exceptions:

1. You must be a citizen of the United States or an alien lawfully admitted for permanent residence to make a request under the Privacy Act.
2. The Privacy Act pertains to records only if those records are within a system of records maintained by the Department of State that are retrieved by an individual's name or personal identifier. For a complete list of the Department's records collections systems, go to Systems of Records Notices (SORNS), located in the Privacy Act page on the Department's FOIA website.
3. Records retrieved in the processing of a request made under the Privacy Act will be processed under both the Privacy Act and the FOIA to ensure the greatest possible disclosure of those records.
4. No fees shall be charged for access to or amendment of records requested under the Privacy Act.

All requests for access to a record must reasonably describe the System of Records and the individual's record within the system in sufficient detail to permit identification of the requested record.

At the time the Department grants access to a record, it will also furnish guidelines on how to make a request to amend a record.

VII. Fees

[Top](#)

The Freedom of Information Reform Act of 1986 significantly changed the way agencies assessed fees in FOIA requests. FOIA requesters are placed in categories based on their qualifications and intended dissemination (publication/distribution) of released material. Determinations are made on a case-by-case basis. The fact that a requester has previously qualified for inclusion in a particular category will be taken into consideration, but the category may be different in subsequent requests if, for example, the intended use of the records sought is different.

Fees are generally assessed by the Department at the conclusion of processing a request.

Please Note: All checks and money orders sent to the Department prior to the processing of your request (unless a prior agreement exists between you and the Department) will be returned to you.

1. Introduction

The Freedom of Information Reform Act of 1986 significantly changed the way agencies assessed fees in FOIA requests. FOIA requesters are placed in categories based on their qualifications and intended dissemination (publication/distribution) of released material. Determinations are made on a case-by-case basis. The fact that a requester has previously qualified for inclusion in a particular category will be taken into consideration, but the category may be different in subsequent requests if, for example, the intended use of the records sought is different.

Fees are generally assessed by the Department at the conclusion of processing a request.

Please Note: All checks and money orders sent to the Department prior to the processing of your request (unless a prior agreement exists between you and the Department) will be returned to you.

2. Requester Categories

For purposes of fees only, the FOIA divides requests into the following categories:

Commercial Use Requests

Commercial use request means a request from or on behalf of one who requests information for a use or purpose that furthers the

commercial, trade, or profit interest of the requester or the person on whose behalf the request is made. (22 CFR 171.11(l))

The Department will assess charges that recover the full direct costs of searching for, reviewing for release, and duplicating the record sought. **(22 CFR 171.15(a))**

Educational Institution Requests

Educational institution means a preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, an institution of professional education, or an institution of vocational education, that operates a program or programs of scholarly research. **(22 CFR 171.11(m))**

Note: For Colleges and Universities, a statement signed by the chairperson of the department to which the requester belongs, attesting to the fact that the request is being made on the institution's behalf in accordance with the criteria stated in 22CFR171.15(b), will serve as documentation supporting the requester's inclusion in this category.

The Department shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. **(22 CFR 171.15(b))**

Noncommercial Scientific Institution Requests

Non-commercial scientific institution means an institution that is not operated on a "commercial" basis and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry. **(22 CFR 171.11(n))**

The Department shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. **(22 CFR 171.15(b))**

Representatives of the News Media Requests

Representative of the news media means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term news means information that is about current events or that would be of current interest to the public. News media include television or radio stations broadcasting to the public at large and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase by the general public. **(22 CFR 171.11(o))**

The Department shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. **(22 CFR 171.15(c))**

All Others Requests

Requests from persons not falling within any of the above categories. **(22 CFR 171.11(p))**

The Department shall charge requesters who do not fit into any of the categories above fees that recover the full reasonable direct cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without charge. **(22 CFR 171.15(d))**

3. Agreement to Pay Applicable Fees

By making a FOIA request, the requester shall be considered to have agreed to pay all applicable fees up to \$25.00 unless a fee waiver has been granted. If the Department estimates that the search costs will exceed \$25.00, the requester will be notified and offered the opportunity to confer with Department personnel with the object of reformulating the request to meet the requester's needs at a lower cost. The request will not be processed further unless the requester agrees to pay the estimated fees. **(22 CFR 171.14-16)**

Fee Limits

It is recommended that the requester indicates the maximum amount of fees that they are willing to pay with their initial request. If it is anticipated that fees will exceed the fee limit set by the requester, or if in processing the request, fees begin to exceed the requester's fee limit, the Department will contact the requester. If the requester has provided a telephone number, the Department will attempt to call the requester to resolve the matter quickly.

Fees Owed for Previous Requests

Requesters who owe fees incurred in connection with the processing of previous requests must pay the fees owed prior to the Department processing any new requests. Such requests will be designated "invalid" until payment in full is received. **(22 CFR 171.16(2))**

4. Fee Waivers

The FOIA permits agencies to furnish documents without charge or at a reduced rate if it is determined that disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government and is not primarily in the commercial interest of the requester. **(22 CFR 171.17)**

Fee Waiver Justification

It is the Department's policy to treat each request for a fee waiver on a case-by-case basis. The Department will not consider a waiver or reduction of fees for requesters (persons or organizations) from whom unpaid fees remain due for a previous FOIA request. To help us make a decision about your request for fee waiver or fee waiver appeal, requesters should provide the following information in your request:

1. State why you believe the subject matter of your request concerns the operations or activities of the Department of State.
2. From what other sources have you attempted to obtain this information? Have you tried to obtain this information from the Foreign Relations of the United States Series, the National Archives and Records Administration, or public libraries? Demonstrate the absence of the requested information from the public domain.
3. Provide a summary of your educational background and work experience, particularly in the field of foreign affairs, and your expertise in the subject area of your request.
4. Expand on your ability and intent to disseminate the information requested, e.g., Have you published or disseminated information in this or related fields in the past? Is the information requested to be used in a specific article or paper currently being prepared?

- When is the article to be published or the program to be aired? To what audience is the article or program aimed?
5. Identify the particular person who will actually use the requested information in scholarly or other analytic work and then disseminate it.
 6. Describe any commercial interest that would be furthered by the disclosure of the requested information, e.g., Will you be paid for the publication or dissemination of the requested information? If so, how much will you be paid and in what manner will you receive payment? Will you receive any other type of commercial benefit due to your dissemination of the requested information? A "commercial interest" is one that furthers a commercial, trade, or profit interest as those terms are commonly understood.

If your request for a fee waiver is not granted, we need your written assurance that you are willing to pay the fees associated with the processing of your request. You may set a limit on the amount you are willing to pay.

For information regarding the requirements for a fee waiver, go to **22 CFR 171.17**

5. Fees Charged

Search and review costs will be calculated based upon the pay scale of the person conducting the search or review. Duplication costs are assessed for only those documents that ultimately are released in full or denied in part; duplication costs are not assessed for documents denied in full, or referred to originating agencies for direct reply.

The Department charges the following fees:

Searches

For searches, the Department will charge the estimated direct cost of each search based on the average current salary rates (including benefits) of the categories of personnel doing the searches. The categories of personnel that may conduct searches and the estimated hourly costs based on the average current salary rates (including benefits) for those categories are:

1. Administrative/clerical – \$21/hour;
2. Professional – \$41/hour;
3. Executive -- \$76/hour

Review of Records

Only requesters who are seeking documents for commercial use may be charged for time spent reviewing records to determine whether they are releasable. Charges may be assessed for the initial review only; i.e., the review undertaken the first time the Department analyzes the applicability of a specific exemption to a particular record or portion of a record.

Duplication Costs

Records shall be duplicated at a rate of \$.15 per page.

No Charge For Requests Under \$10.00

The Department will not charge fees to any requester, including commercial use requesters, if the cost of collecting a fee would be equal to or greater than the fee itself. This means that if billable costs are less than \$10.00, the requester is not charged.

VIII. Appeals

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Any adverse determination, including the failure to find material responsive to the request or the denial of access to material, may be administratively appealed. If, on appeal, the adverse determination is upheld in whole or in part, the requester has the right to seek judicial review the Department's actions.

1. Denial of Access

Appeals of denial of access must be made in writing and sent to the **Chairman, Appeals Review Panel, c/o Information and Privacy Coordinator/Appeals Officer, U.S. Department of State, A/GIS/IPS/PP, SA-2, Washington, DC 20522-8100**. The appeal letter should state why the requester disagrees with the determination and provide any additional supporting information. This might include examples of material previously released by the State Department.

2. Fee Waiver/Expedition Handling

The Department's decision to refuse to waive or reduce fees, or grant expedition, may also be appealed by writing to **Chief of the Requester Liaison Division, c/o Information and Privacy Coordinator, U.S. Department of State, A/GIS/IPS/RL, SA-2, Washington, DC 20522-8100**. The appeal letter should contain as much information and documentation as possible to support the request for a waiver or reduction of fees.

IX. Mandatory Declassification Review (MDR)

Top

MDR is a mechanism provided in Section 3.5 of Executive Order 13526 (which replaced Executive Order 12958) whereby an individual may request the declassification review of specific classified material that (s)he is able to identify so that the agency may retrieve it with reasonable effort.

Section 3.5 provides that information classified under this order or predecessor orders shall be subject to a review for declassification by the originating agency if:

1. the request for a review describes the document or material containing the information with sufficient specificity to enable the

- agency to locate it with a reasonable amount of effort;
- 2. the document or material containing the information responsive to the request is not contained within an operational file exempted from search and review, publication, and disclosure under 5 U.S.C 552 in accordance with law
- 3. the information has not been reviewed for declassification within the past 2 years. If the agency has reviewed the information within the past 2 years, or the information is the subject of pending litigation, the agency shall inform the requester of this fact and of the requester's appeal rights.

1. General

MDR is a mechanism provided in Section 3.5 of Executive Order 13526 (which replaced Executive Order 12958) whereby an individual may request the declassification review of specific classified material that (s)he is able to identify so that the agency may retrieve it with reasonable effort.

Section 3.5 provides that information classified under this order or predecessor orders shall be subject to a review for declassification by the originating agency if:

- 1. the request for a review describes the document or material containing the information with sufficient specificity to enable the agency to locate it with a reasonable amount of effort;
- 2. the document or material containing the information responsive to the request is not contained within an operational file exempted from search and review, publication, and disclosure under 5 U.S.C 552 in accordance with law
- 3. the information has not been reviewed for declassification within the past 2 years. If the agency has reviewed the information within the past 2 years, or the information is the subject of pending litigation, the agency shall inform the requester of this fact and of the requester's appeal rights.

2. Where to File a Request for MDR

You may mail or fax your request for Department of State records to the following:

Office of Information Programs and Services
A/GIS/IPS/RL
U. S. Department of State, SA-2
Washington, D. C. 20522-8100

Facsimile: (202) 261-8579

Please write "Mandatory Declassification Review" on the envelope or the subject line of your fax.

3. How to Request MDR

The request should specifically mention MDR under E.O. 13526, and not the Freedom of Information or Privacy Acts. The request must identify the document or information to be reviewed with as much specificity as possible, e.g., "Embassy London telegram 88994 of August 22, 1997." As a general rule, MDRs should be filed only for the declassification and release of information known to be classified. MDRs will not be opened for general requests for information, e.g. "information on Tonga-U.S. relations from 2002 to the present", though that may be an appropriate subject of a FOIA request.

Although the purpose of an MDR is to provide declassification review of classified material, material that has been declassified pursuant to the review may nonetheless be withheld for other reasons, most typically because withholding is required by the FOIA.

4. Appealing an MDR Decision

Requesters who are denied declassification and release of information pursuant to an MDR request can file an administrative appeal with the Department's Appeals Review Panel (ARP). A negative decision by the ARP may be appealed to the Interagency Security Classification Appeals Panel (ISCAP), the highest appellate body for MDR decisions.

Please note: the codification of the rules for requesting mandatory declassification review in 22 Code of Federal Regulations (CFR) 171, Subpart C refer to Executive Order 12958. Although Executive Order 12958 has been superseded by Executive Order 13526, the instructions in 22CFR171, Subpart C for requesting mandatory declassification review remain valid.

Questions regarding access to Department of State records should be directed to the FOIA Requester Service Center by calling the FOIA Hotline at (202) 261-8484.

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

JUDICIAL WATCH, INC.,)	
)	
Plaintiff,)	
)	
v.)	No. 13-cv-1363-EGS
)	
U.S. DEPARTMENT OF STATE,)	
)	
Defendant.)	

DECLARATION OF JOHN F. HACKETT

Pursuant to 28 U.S.C. § 1746, I, John F. Hackett, declare and state as follows:

1. I am the Acting Director of the Office of Information Programs and Services ("IPS") of the United States Department of State (the "Department"). In this capacity, I am the Department official immediately responsible for responding to requests for records under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552, the Privacy Act of 1974, 5 U.S.C. § 552a, and other applicable records access provisions. I have been employed by the Department in this capacity since March 2014. Prior to assuming this role, I served as the Deputy Director of IPS since April 2013. As the acting IPS Director, I am authorized to classify and declassify national security information. I make the following statements based upon my personal knowledge, which in turn is based upon a personal review of the records in the case file established for processing the subject request and upon information furnished to me in the course of my official duties. I am familiar with the efforts of Department personnel to process the subject requests, and I am in charge of coordinating the agency's search and recovery efforts with respect to those requests.

2. The core responsibilities of IPS include: (1) responding to records access requests made by the public (including under the FOIA, the Privacy Act ("PA"), and the mandatory declassification review requirements of the Executive Order governing classified national security information), by Members of Congress, by other government agencies, and those made pursuant to judicial process such as subpoenas, court orders, and discovery requests; (2) records management; (3) privacy protection; (4) national security classification management and declassification review; (5) corporate records archives management; (6) research; (7) operation and management of the Department's library; and (8) technology applications that support these activities.

3. By letter dated May 21, 2013 (Exhibit 1), Plaintiff submitted a FOIA request to the Department for:

Any and all SF-50 (Notification of Personnel Action) forms for Ms. Huma Abedin.

Any and all contracts (including, but not limited to, personal service contracts) between the Department of State and Ms. Huma Abedin.

Any and all records regarding, concerning, or related to the authorization for Ms. Huma Abedin to represent individual clients and/or otherwise engage in outside employment while employed by and/or engaged in a contractual arrangement with the Department of State.

Plaintiff's request further stated that "[t]he time frame for this request is January 1, 2010 to present."

4. The Department conducted a search for records responsive to the FOIA request, directed to those Department records systems in which the Department determined that responsive records were likely to be located: the Central Foreign Policy Records (the Department's principal records system), the Bureau of Human Resources, the Office of the Executive Secretariat, and the Office of the Legal Adviser.

5. By letter dated February 12, 2014, after processing the responsive records that were located by these searches, the Department informed plaintiff as to the records systems that were searched, and it released all non-exempt information to plaintiff.

6. On March 14, 2014, after receiving these records from the Department, plaintiff filed a Stipulation of Dismissal with Prejudice [# 12] under Fed. R. Civ. P. 41(a)(1)(A)(ii).

7. Plaintiff seeks to reopen the case, citing a March 2, 2015 article in the New York Times stating that, while at the Department, former Secretary Clinton used a non-“state.gov” email account to conduct government business. See Pl. Motion at 2.

8. As stated in the Defendant’s Response to Plaintiff’s Rule 60(b) Motion, the Department does not oppose the reopening of the case and will search the emails provided by former Secretary Clinton to the Department to determine whether there are any additional records responsive to plaintiff’s FOIA request.

9. In December 2014, former Secretary Clinton provided the Department with 55,000 pages of emails that were sent or received by her while she was Secretary of State. Given the considerable public interest, the Department plans to review the collection for public release, consistent with the FOIA, and to make the former Secretary’s emails available to the public by posting them on a Department website. This will make the maximum number of records available in the shortest amount of time, and will be considerably more efficient than reviewing the documents piecemeal in response to multiple subject-specific FOIA requests.

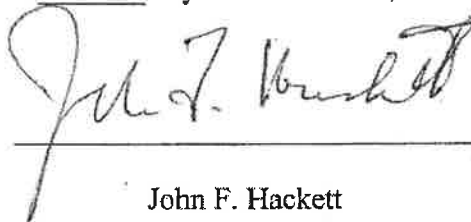
10. The Department’s processing of the former Secretary’s emails is underway. This includes scanning the documents, which were provided to the Department in paper form, as well as re-assigning several staff members to work on this initiative and reviewing all the records for applicable FOIA exemptions. These records are comprised of communications to or from the

former Secretary of State, who was responsible for the overall direction and supervision of the full range of activities of the Department of State. Thus, the review of these materials will likely require consultation with a broad range of subject matter experts within the Department and other agencies. Given these requirements, the Department anticipates that processing this large volume of records will take several months. The Department is committed to processing the former Secretary's emails expeditiously and, while taking into consideration the need to meet its other legal obligations,¹ is re-allocating additional resources to that endeavor.

11. Once the Department has publicly posted the full set of agency records from the emails provided to the Department by former Secretary Clinton, the Department will also search the set for records responsive to plaintiff's FOIA request.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 27th day of March 2015, Washington, D.C.



John F. Hackett

¹ For example, in FY 2014, the Department received over 19,000 FOIA requests. Additionally, the Department is currently engaged in over 70 FOIA litigation cases, many of which involve court-ordered document production schedules.



**Judicial
Watch®**
*Because no one
is above the law!*

F-2013-08812

May 21, 2013

VIA CERTIFIED MAIL & FACSIMILE (202-261-8579)

Office of Information Programs and Services
A/GIS/IPS/RL
U. S. Department of State
Washington, D. C. 20522-8100

Re: Freedom of Information Act Request

Dear Freedom of Information Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, Judicial Watch, Inc. hereby requests that the Department of State produce the following within twenty (20) business days:

1. Any and all SF-50 (Notification of Personnel Action) forms for Ms. Huma Abedin.
2. Any and all contracts (including, but not limited to, personal service contracts) between the Department of State and Ms. Huma Abedin.
3. Any and all records regarding, concerning, or related to the authorization for Ms. Huma Abedin to represent individual clients and/or otherwise engage in outside employment while employed by and/or engaged in a contractual arrangement with the Department of State.

The time frame for this request is January 1, 2010 to the present.

If any responsive record or portion thereof is claimed to be exempt from production under FOIA, please provide sufficient identifying information with respect to each allegedly exempt record or portion thereof to allow us to assess the propriety of the claimed exemption. *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974). In addition, any reasonably segregable portion of a responsive record must be provided, after redaction of any allegedly exempt material. 5 U.S.C. § 552(b).

For purposes of this request, the term "record" shall mean: (1) any written, printed, or typed material of any kind, including without limitation all correspondence, memoranda, notes, messages, letters, cards, facsimiles, papers, forms, telephone

Department of State

May 21, 2013

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messages, diaries, schedules, calendars, chronological data, minutes, books, reports, charts, lists, ledgers, invoices, worksheets, receipts, returns, computer printouts, printed matter, prospectuses, statements, checks, statistics, surveys, affidavits, contracts, agreements, transcripts, magazine or newspaper articles, or press releases; (2) any electronically, magnetically, or mechanically stored material of any kind, including without limitation all electronic mail or e-mail; (3) any audio, aural, visual, or video records, recordings, or representations of any kind; (4) any graphic materials and data compilations from which information can be obtained; and (5) any materials using other means of preserving thought or expression.

Judicial Watch also hereby requests a waiver of both search and duplication fees pursuant to 5 U.S.C. §§ 552(a)(4)(A)(ii)(II) and (a)(4)(A)(iii). Judicial Watch is entitled to a waiver of search fees under 5 U.S.C. § 552(a)(4)(A)(ii)(II) because it is a member of the news media. *Cf. National Security Archive v. Department of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989) (defining news media within FOIA context). Judicial Watch has also been recognized as a member of the news media in other FOIA litigation. *See, e.g., Judicial Watch, Inc. v. U.S. Department of Justice*, 133 F. Supp.2d 52 (D.D.C. 2000); and, *Judicial Watch, Inc. v. Department of Defense*, 2006 U.S. Dist. LEXIS 44003, *1 (D.D.C. June 28, 2006). Judicial Watch regularly obtains information about the operations and activities of government through FOIA and other means, uses its editorial skills to turn this information into distinct works, and publishes and disseminates these works to the public. It intends to do likewise with the records it receives in response to this request.

Judicial Watch also is entitled to a complete waiver of both search fees and duplication fees pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Under this provision, records:

shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of government and is not primarily in the commercial interest of the requester.

5 U.S.C. § 552(a)(4)(A)(iii).

In addition, if records are not produced within twenty (20) business days, Judicial Watch is entitled to a complete waiver of search and duplication fees under Section 6(b) of the OPEN Government Act of 2007, which amended FOIA at 5 U.S.C. § (a)(4)(A)(viii).

Judicial Watch is a 501(c)(3), not-for-profit, educational organization, and, by definition, it has no commercial purpose. Judicial Watch exists to educate the public

Department of State

May 21, 2013

Page 3 of 3

about the operations and activities of government, as well as to increase public understanding about the importance of ethics and the rule of law in government. The particular records requested herein are sought as part of Judicial Watch's ongoing efforts to document the operations and activities of the federal government and to educate the public about these operations and activities. Once Judicial Watch obtains the requested records, it intends to analyze them and disseminate the results of its analysis, as well as the records themselves, as a special written report. Judicial Watch will also educate the public via radio programs, Judicial Watch's website, and/or newsletter, among other outlets. It also will make the records available to other members of the media or researchers upon request. Judicial Watch has a proven ability to disseminate information obtained through FOIA to the public, as demonstrated by its long-standing and continuing public outreach efforts.

Given these circumstances, Judicial Watch is entitled to a public interest fee waiver of both search costs and duplication costs. Nonetheless, in the event our request for a waiver of search and/or duplication costs is denied, Judicial Watch is willing to pay up to \$350.00 in search and/or duplication costs. Judicial Watch requests that it be contacted before any such costs are incurred, in order to prioritize search and duplication efforts.

In an effort to facilitate record production within the statutory time limit, Judicial Watch is willing to accept documents in electronic format (e.g. e-mail, .pdfs). When necessary, Judicial Watch will also accept the "rolling production" of documents.

If you do not understand this request or any portion thereof, or if you feel you require clarification of this request or any portion thereof, please contact us immediately at 202-646-5172 or sdunagan@judicialwatch.org. We look forward to receiving the requested documents and a waiver of both search and duplication costs within twenty (20) business days. Thank you for your cooperation.

Sincerely,



Sean Dunagan
Judicial Watch

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

JUDICIAL WATCH, INC.,

Plaintiff,

v.

U.S. DEPARTMENT OF STATE,

Defendant.

No. 13-cv-1363-EGS

DECLARATION OF JOHN F. HACKETT

Pursuant to 28 U.S.C. § 1746, I, John F. Hackett, declare and state as follows:

1. I am the Director of the Office of Information Programs and Services ("IPS") of the United States Department of State (the "Department"). In this capacity, I am the Department official immediately responsible for responding to requests for records under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552, the Privacy Act of 1974, 5 U.S.C. § 552a, and other applicable records access provisions. I have been employed by the Department in this capacity since June 2015, and prior to that, I served as the Deputy Director of IPS since April 2013, and Acting Director since March 2014. As the IPS Director, I am authorized to classify and declassify national security information. I make the following statements based upon my personal knowledge, which in turn is based upon a personal review of the records in the case file established for processing the subject request and upon information furnished to me in the course of my official duties. I am familiar with the efforts of Department personnel to process the subject requests, and I am in charge of coordinating the agency's search and recovery efforts with respect to those requests.

2. The core responsibilities of IPS include: (1) responding to records access requests made by the public (including under the FOIA, the Privacy Act ("PA"), and the mandatory declassification review requirements of the Executive Order governing classified national security information), by Members of Congress, by other government agencies, and those made pursuant to judicial process such as subpoenas, court orders, and discovery requests; (2) records management; (3) privacy protection; (4) national security classification management and declassification review; (5) corporate records archives management; (6) research; (7) operation and management of the Department's library; and (8) technology applications that support these activities.

3. By letter dated May 21, 2013 (Exhibit 1), Plaintiff submitted a FOIA request to the Department for:

Any and all SF-50 (Notification of Personnel Action) forms for Ms. Huma Abedin.

Any and all contracts (including, but not limited to, personal service contracts) between the Department of State and Ms. Huma Abedin.

Any and all records regarding, concerning, or related to the authorization for Ms. Huma Abedin to represent individual clients and/or otherwise engage in outside employment while employed by and/or engaged in a contractual arrangement with the Department of State.

Plaintiff's request further stated that "[t]he time frame for this request is January 1, 2010 to present."

4. On July 31, 2015, the Court ordered the U.S. Department of State (the "Department"), as related to Judicial Watch's FOIA request in this case, to "identify any and all servers, accounts, hard drives, or other devices currently in the possession or control of the

Department or otherwise that may contain responsive information.” This declaration responds to the Court’s inquiry.

The Department’s Offices and Records Systems

5. The Department determined that the following offices and agency records systems were reasonably likely to contain responsive records: the Bureau of Human Resources, the Office of the Executive Secretariat, the Office of the Legal Adviser, the Office of the Under Secretary for Management, and the Central Foreign Policy Records. The searches of these offices and agency records systems are underway.

The Bureau of Human Resources

6. The Department determined that the following electronic records systems within the Bureau of Human Resources (“HR”) were reasonably likely to contain responsive records: HR Online and the Global Employment Management System (“GEMS”). HR Online is the system that serves as HR’s main web-portal. Contained within HR Online is Ms. Abedin’s electronic Official Personnel Folder (“eOPF”). The eOPF system, which is managed by HR’s Records and Information Management Division, contains documents pertaining to HR administration, employee performance, and retirement, including Standard Form 50s (Notifications of Personnel Actions) (“SF-50s”) for Department employees. GEMS is the primary Human Resources Management application and centralized personnel database for the Department.

The Office of the Executive Secretariat

7. The Department determined that the following records systems within the Office of the Executive Secretariat (“S/ES”) were reasonably likely to contain responsive records:

- (1) Ms. Abedin's personnel file, which is kept in paper form within the HR component of S/ES;
- (2) The state.gov email accounts of Ms. Abedin, Cheryl Mills (who served as the former Secretary's Chief of Staff and Counselor at the Department) and two other former employees;¹
- (3) the Secretariat Tracking and Retrieval System ("STARS"); and (4) Everest.²

8. The Department is not currently aware of any personal computing devices issued by the Department to former Secretary Clinton, Ms. Abedin, or Ms. Mills that may contain responsive records.

The Office of the Legal Adviser

9. The Department determined that the following records systems within the Office of the Legal Adviser ("L") were reasonably likely to contain responsive records: (1) L's electronic records management system; (2) relevant paper records; (3) the electronic Financial Tracking Disclosure System within L's sub-office for Ethics and Financial Disclosures ("L/EFD"); and (4) relevant state.gov email accounts of attorneys and staff within L/EFD, L's sub-office for Employment Law ("L/EMP"), and the L Front Office.

The Office of the Under Secretary for Management

10. The Department determined that the following records systems within the Office of the Under Secretary for Management ("M") were reasonably likely to contain responsive records: (1) the state.gov email accounts of Under Secretary Patrick Kennedy and two other employees in the M Front Office; and (2) the electronic shared drive and paper records of M's Office of White House Liaison.

¹ For details about non-state.gov accounts, see *infra* ¶¶ 12-15.

² Everest is a Microsoft SharePoint based enterprise system used to task, track, control and archive documents containing substantive foreign policy information passing to, from, and through the offices of the Secretary of State, the Deputy Secretaries of State and other Department principal officers.

The Central Foreign Policy Records

11. The Department determined that the Central Foreign Policy Records ("Central File") was reasonably likely to contain responsive records. The Central File is the Department's centralized records system and contains over 30 million records in electronic form of a substantive nature that establish, discuss, or define foreign policy, set precedents, or require action or use by more than one office.

Non-State.Gov Accounts

12. The Department determined that non-state.gov email accounts of former Secretary Clinton, Ms. Abedin, and Ms. Mills were reasonably likely to contain responsive records. The Department does not possess or control those accounts, but as described below, has received documents from those accounts. Furthermore, other than the information that has been provided to the Department as described below, the Department is not in a position to attest to non-Department servers, accounts, hard drives, or other devices that may contain responsive information.

13. The Department received approximately 55,000 pages of emails from former Secretary Clinton (the "Clinton emails"). These records were provided by her in response to a request from the Department that, if former Secretaries or their representatives were "aware or [were to] 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." See Defendant's Notice of Filing dated August 6, 2015, Exh. A at 1-3. At the request of the Court, by declaration dated August 8, former Secretary Clinton stated "I have directed that all my e-mails on clintonemail.com in my custody that were or potentially

were federal records be provided to the Department of State, and on information and belief, this has been done.” See Supplement to Defendant’s August 7, 2015 Status Report dated August 10, 2015, Exh. A.

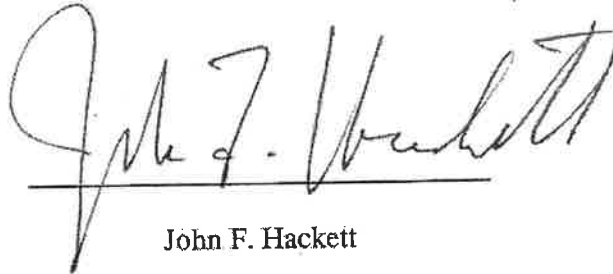
14. By letter dated August 12, 2015, former Secretary Clinton’s attorney informed the Department that he “provided to the Department of Justice on August 6, 2015, the .pst file containing electronic copies of the 55,000 pages of emails on a thumb drive (along with two copies),” and that “Platte River Networks is today providing to the Department of Justice the server and related equipment on which emails to and from Secretary Clinton’s clinonemail.com were stored from 2009 to 2013 and which PRN took possession of in 2013.” See August 12, 2015 Status Report, Exh. E.

15. The Department has sent letters to Ms. Abedin and to Ms. Mills, requesting that they make available to the Department any federal records that they may have in their possession, such as emails concerning official government business sent or received on a personal email account while serving in their official capacities with the Department, if there is any reason to believe that those records may not otherwise be preserved in the Department’s recordkeeping system. The Department has received records from both Ms. Abedin and Ms. Mills in response to its letters. By letter dated August 12, 2015, counsel for Ms. Mills represented that “we have produced all potential federal records identified in Ms. Mills’ possession.” See attached, Exh. 2. By letter dated August 7, 2015, Ms. Abedin’s counsel represented that they are “on course to complete [their] production of responsive and potentially responsive materials on or before August 28, 2015.” See attached, Exh. 3. The records reviewed to date by the Department indicate that Ms. Abedin and Ms. Mills used personal email accounts

located on commercial servers at times for government business. Additionally, Huma Abedin had an account on clintonemail.com, which was used at times for government business.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 14th day of August 2015, Washington, D.C.

A handwritten signature in black ink, appearing to read "John F. Hackett", is written over a horizontal line. The signature is stylized with a large initial "J" and a long, sweeping underline.

John F. Hackett



**Judicial
Watch**
*Because no one
is above the law!*

F-2013-08812

May 21, 2013

VIA CERTIFIED MAIL & FACSIMILE (202-261-8579)

Office of Information Programs and Services
A/GIS/IPS/RL
U. S. Department of State
Washington, D. C. 20522-8100

Re: Freedom of Information Act Request

Dear Freedom of Information Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, Judicial Watch, Inc. hereby requests that the Department of State produce the following within twenty (20) business days:

- 1. Any and all SF-50 (Notification of Personnel Action) forms for Ms. Huma Abedin.**
- 2. Any and all contracts (including, but not limited to, personal service contracts) between the Department of State and Ms. Huma Abedin.**
- 3. Any and all records regarding, concerning, or related to the authorization for Ms. Huma Abedin to represent individual clients and/or otherwise engage in outside employment while employed by and/or engaged in a contractual arrangement with the Department of State.**

The time frame for this request is January 1, 2010 to the present.

If any responsive record or portion thereof is claimed to be exempt from production under FOIA, please provide sufficient identifying information with respect to each allegedly exempt record or portion thereof to allow us to assess the propriety of the claimed exemption. *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974). In addition, any reasonably segregable portion of a responsive record must be provided, after redaction of any allegedly exempt material. 5 U.S.C. § 552(b).

For purposes of this request, the term "record" shall mean: (1) any written, printed, or typed material of any kind, including without limitation all correspondence, memoranda, notes, messages, letters, cards, facsimiles, papers, forms, telephone

Department of State

May 21, 2013

Page 2 of 3

messages, diaries, schedules, calendars, chronological data, minutes, books, reports, charts, lists, ledgers, invoices, worksheets, receipts, returns, computer printouts, printed matter, prospectuses, statements, checks, statistics, surveys, affidavits, contracts, agreements, transcripts, magazine or newspaper articles, or press releases; (2) any electronically, magnetically, or mechanically stored material of any kind, including without limitation all electronic mail or e-mail; (3) any audio, aural, visual, or video records, recordings, or representations of any kind; (4) any graphic materials and data compilations from which information can be obtained; and (5) any materials using other means of preserving thought or expression.

Judicial Watch also hereby requests a waiver of both search and duplication fees pursuant to 5 U.S.C. §§ 552(a)(4)(A)(ii)(II) and (a)(4)(A)(iii). Judicial Watch is entitled to a waiver of search fees under 5 U.S.C. § 552(a)(4)(A)(ii)(II) because it is a member of the news media. *Cf. National Security Archive v. Department of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989) (defining news media within FOIA context). Judicial Watch has also been recognized as a member of the news media in other FOIA litigation. *See, e.g., Judicial Watch, Inc. v. U.S. Department of Justice*, 133 F. Supp.2d 52 (D.D.C. 2000); and, *Judicial Watch, Inc. v. Department of Defense*, 2006 U.S. Dist. LEXIS 44003, *1 (D.D.C. June 28, 2006). Judicial Watch regularly obtains information about the operations and activities of government through FOIA and other means, uses its editorial skills to turn this information into distinct works, and publishes and disseminates these works to the public. It intends to do likewise with the records it receives in response to this request.

Judicial Watch also is entitled to a complete waiver of both search fees and duplication fees pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Under this provision, records:

shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of government and is not primarily in the commercial interest of the requester.

5 U.S.C. § 552(a)(4)(A)(iii).

In addition, if records are not produced within twenty (20) business days, Judicial Watch is entitled to a complete waiver of search and duplication fees under Section 6(b) of the OPEN Government Act of 2007, which amended FOIA at 5 U.S.C. § (a)(4)(A)(viii).

Judicial Watch is a 501(c)(3), not-for-profit, educational organization, and, by definition, it has no commercial purpose. Judicial Watch exists to educate the public

Department of State

May 21, 2013

Page 3 of 3

about the operations and activities of government, as well as to increase public understanding about the importance of ethics and the rule of law in government. The particular records requested herein are sought as part of Judicial Watch's ongoing efforts to document the operations and activities of the federal government and to educate the public about these operations and activities. Once Judicial Watch obtains the requested records, it intends to analyze them and disseminate the results of its analysis, as well as the records themselves, as a special written report. Judicial Watch will also educate the public via radio programs, Judicial Watch's website, and/or newsletter, among other outlets. It also will make the records available to other members of the media or researchers upon request. Judicial Watch has a proven ability to disseminate information obtained through FOIA to the public, as demonstrated by its long-standing and continuing public outreach efforts.

Given these circumstances, Judicial Watch is entitled to a public interest fee waiver of both search costs and duplication costs. Nonetheless, in the event our request for a waiver of search and/or duplication costs is denied, Judicial Watch is willing to pay up to \$350.00 in search and/or duplication costs. Judicial Watch requests that it be contacted before any such costs are incurred, in order to prioritize search and duplication efforts.

In an effort to facilitate record production within the statutory time limit, Judicial Watch is willing to accept documents in electronic format (e.g. e-mail, .pdfs). When necessary, Judicial Watch will also accept the "rolling production" of documents.

If you do not understand this request or any portion thereof, or if you feel you require clarification of this request or any portion thereof, please contact us immediately at 202-646-5172 or sdunagan@judicialwatch.org. We look forward to receiving the requested documents and a waiver of both search and duplication costs within twenty (20) business days. Thank you for your cooperation.

Sincerely,



Sean Dunagan
Judicial Watch

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
2001 K STREET, NW
WASHINGTON, DC 20006-1047
TELEPHONE (202) 223-7300

UNIT 3801, OFFICE TOWER A, BEIJING
FORTUNE PLAZA
NO. 7 DONGSANHUAN ZHONGLU
CHAOYANG DISTRICT
BEIJING 100020
PEOPLE'S REPUBLIC OF CHINA
TELEPHONE (86-10) 5828-8300

12TH FLOOR, HONG KONG CLUB BUILDING
3A CHATER ROAD, CENTRAL
HONG KONG
TELEPHONE (852) 2846-0300

ALDER CASTLE
10 NOBLE STREET
LONDON EC2V 7JL, U.K.
TELEPHONE (44-20) 7367 1800

FUKOKU SEIMEI BUILDING
2-2 UCHISAIWAICHO 2-CHOME
CHIYODA-KU, TOKYO 100-0011, JAPAN
TELEPHONE (81-3) 3597-8101

TORONTO-DOMINION CENTRE
77 KING STREET WEST, SUITE 3100
P.O. BOX 226
TORONTO, ONTARIO M5K 1J3
TELEPHONE (416) 504-0520

2001 K STREET, NW
WASHINGTON, DC 20006-1047
TELEPHONE (202) 223-7300

500 DELAWARE AVENUE, SUITE 200
POST OFFICE BOX 32
WILMINGTON, DE 19889-0032
TELEPHONE (302) 655-4410

BETH A. WILKINSON

TELEPHONE (202) 223-7340
FACSIMILE (202) 204-7395

E-MAIL: bwilkinson@paulweiss.com

August 12, 2015

By Electronic Mail & Hand Delivery

Patrick F. Kennedy
Under Secretary for Management
United States Department of State
2201 C Street, NW
Washington, DC 20520

Dear Under Secretary Kennedy:

We represent Cheryl Mills and are writing in further response to your March 11, 2015 request that Ms. Mills assist the Department of State in responding to a subpoena directed to Secretary John Kerry from the House Select Committee on Benghazi and in preserving potential federal records in her custody. Enclosed with this letter are documents that were in Ms. Mills' custody and control that we have identified for your further review.

In providing these materials, we are not indicating that they are all federal records. Rather, we have been over-inclusive in our review and production of Ms. Mills' materials to allow the Department of State to determine which documents to retain and archive. Accordingly, we have likely provided non-records in this production and we request that you treat those documents as confidential and non-public, not grant access to any party without consultation with Ms. Mills, and return them to Ms. Mills as soon as possible.

With the delivery of these materials today, we have produced all potential federal records identified in Ms. Mills' possession. Should any additional potential federal records be identified in the future, we will promptly notify the Department of State and provide them.

Sincerely,



Beth A. Wilkinson

August 7, 2015

By Hand Delivery and Email

Patrick F. Kennedy
Under Secretary for Management
United States Department of State
2201 C Street NW
Washington, DC 20520

Dear Under Secretary Kennedy:

We write in further reply to your request for Ms. Huma Abedin's assistance in preserving any potential federal records in her possession relating to her work with the Department from 2009 to 2013.

Enclosed with this letter are documents in Ms. Abedin's possession that we have identified as responsive or potentially responsive to your request. Our production of a given document does not indicate we believe it is a federal record. We have been, and will continue to be, over-inclusive in our review and production of Ms. Abedin's materials to allow the Department of State to determine which documents qualify as federal records. Accordingly, to the extent we have provided non-records in this production or in Ms. Abedin's previous production of July 9, 2015, we request that you treat those documents as confidential and non-public and not grant access to any party without further consultation with Ms. Abedin, and return them to Ms. Abedin as soon as possible.

As indicated in our August 6 letter to you, we are on course to complete our production of responsive and potentially responsive materials on or before August 28, 2015.

Sincerely,



Karen L. Dunn
Boies, Schiller & Flexner LLP
5301 Wisconsin Avenue, NW
Washington, DC 20015



Miguel E. Rodriguez
Bryan Cave LLP
1155 F Street, NW
Washington, DC 20004

Enclosure

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

JUDICIAL WATCH, INC.,

Plaintiff,

V.

U.S. DEPARTMENT OF STATE,

Defendant.

No. 13-cv-1363-EGS

DECLARATION OF JOSEPH E. MACMANUS

Pursuant to 28 U.S.C. § 1746, I, Ambassador Joseph E. Macmanus, declare and state as follows:

1. I am the Executive Secretary of the Department of State. In this capacity, I am the Department official responsible for the activities of the Office of the Executive Secretariat ("S/ES"), which serves as the liaison between the Department's bureaus and the offices of the Secretary, Deputy Secretary, and Under Secretaries. I make the following statements based upon my personal knowledge, which in turn is based upon information furnished to me in the course of my official duties.

2. I have been informed that Plaintiff submitted a FOIA request to the Department for:

Any and all SF-50 (Notification of Personnel Action) forms for Ms. Huma Abedin.

Any and all contracts (including, but not limited to, personal service contracts) between the Department of State and Ms. Huma Abedin.

Any and all records regarding, concerning, or related to the authorization for Ms. Huma Abedin to represent individual clients and/or otherwise engage in outside employment while employed by and/or engaged in a contractual arrangement with the Department of State.

3. The Department determined that five of its offices and agency records systems were reasonably likely to contain responsive records. See August 14 Declaration of John Hackett at ¶ 5. The Department's electronic records systems and accounts, such as state.gov email accounts, are generally housed on Department servers.

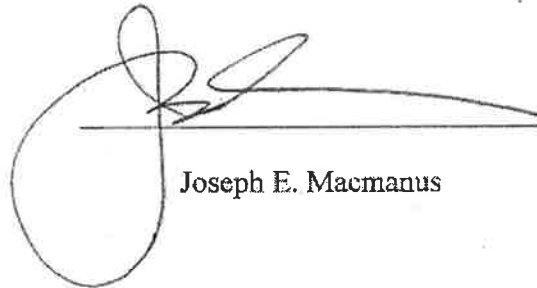
4. The Department is not aware of any personal computing devices issued by the Department to former Secretary Clinton, Ms. Abedin, or Ms. Mills that may contain records responsive to plaintiff's FOIA request. The Office of Information Resource Management within the Office of the Executive Secretariat ("S/ES-IRM") is the office responsible for issuing Department electronic devices to officials within the Office of the Secretary. S/ES-IRM does not believe that any personal computing device was issued by the Department to former Secretary of State Hillary Clinton, and has not located any such device at the Department. S/ES-IRM believes that Ms. Mills and Ms. Abedin were each issued BlackBerry devices. S/ES-IRM has not located any such device at the Department. S/ES-IRM's standard procedure upon return of such devices is to perform a factory reset (which removes any user settings or configurations) and then to re-issue the device to another employee, to destroy it, or to excess it. Because the devices issued to Ms. Mills and Ms. Abedin would have been outdated models, in accordance with standard operating procedures those devices would have been destroyed or excessed. As stated above, the state.gov email accounts themselves are generally housed on the Department's servers.

5. Within S/ES, the Department identified the state.gov accounts of Huma Abedin, Cheryl Mills, and two other former officials. *Id.* at ¶ 7. In the process of conducting a revised search of S/ES, the Department retrieved potentially responsive emails sent to or from Ms. Abedin and the state.gov accounts of an Administrative Officer for S/ES and a Senior Advisor in

the Office of the Under Secretary for Management's White House Liaison Office. As a result, in addition to searching the state.gov email accounts of Ms. Abedin and Ms. Mills, the Department initiated searches of those other two individuals' state.gov accounts. Former Secretary of State Hillary Clinton did not use a state.gov account.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 19 day of August 2015, Washington, D.C.

A handwritten signature in black ink, consisting of a large loop on the left and a long horizontal stroke extending to the right, ending in a small dot.

Joseph E. Macmanus

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JUDICIAL WATCH, INC.,

Plaintiff,

v.

U.S. DEPARTMENT OF STATE,

Defendant.

No. 13-cv-1363-EGS

THIRD DECLARATION OF JOHN F. HACKETT

Pursuant to 28 U.S.C. § 1746, I, John F. Hackett, declare and state as follows:

I. I am the Director of the Office of Information Programs and Services ("IPS") of the United States Department of State (the "Department"). In this capacity, I am the Department official immediately responsible for responding to requests for records under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552, the Privacy Act of 1974, 5 U.S.C. § 552a, and other applicable records access provisions. I have been employed by the Department in this capacity since June 2015. Prior to assuming this role, I served as the Acting Director of IPS since April 2014 and the Deputy Director since April 2013. As the IPS Director, I have original classification authority and am authorized to classify and declassify national security information. I make the following statements based upon my personal knowledge, which in turn is based on a personal review of the records in the case file established for processing the request at issue in this litigation (the "subject request") and upon information furnished to me in the course of my official duties. I am familiar with the efforts of Department personnel to process

the subject request, and I am in charge of coordinating the agency's search and recovery efforts with respect to that request.

2. The core responsibilities of IPS include: (1) responding to records access requests made by the public (including under the FOIA, the Privacy Act, and the mandatory declassification review requirements of the Executive Order governing classified national security information), by members of Congress, by other government agencies, and those made pursuant to judicial process such as subpoenas, court orders and discovery requests; (2) records management; (3) privacy protection; (4) national security classification management and declassification review; (5) corporate records archives management; (6) research; (7) operation and management of the Department's library; and (8) technology applications that support these activities.

3. This declaration explains the Department's supplemental search, after the case was reopened, for records responsive to Plaintiff's FOIA request and the FOIA exemptions applied in processing the responsive records. The *Vaughn* index below provides a detailed description of the information withheld and the justifications for those withholdings for those withholdings that Plaintiff is challenging.

I. PRIOR HISTORY OF THE CASE

4. By letter dated May 21, 2013 (Exhibit 1), Plaintiff submitted a FOIA request to the Department for:

1. Any and all SF-50 (Notification of Personnel Action) forms for Ms. Huma Abedin.
2. Any and all contracts (including, but not limited to, personal service contracts) between the Department of State and Ms. Huma Abedin.

3. Any and all records regarding, concerning, or related to the authorization for Ms. Huma Abedin to represent individual clients and/or otherwise engage in outside employment while employed by and/or engaged in a contractual arrangement with the Department of State.

Plaintiff's request further stated that "[t]he time frame for this request is January 1, 2010 to present."

Ms. Abedin served as a Deputy Chief of Staff in the Office of the Secretary from January 22, 2009 through June 3, 2012, and then as a Special Government Employee for approximately seven months, from June 3, 2012 to February 1, 2013.

5. By letter dated June 5, 2013 (Exhibit 2), IPS acknowledged receipt of Plaintiff's request and assigned it Case Control Number F-2013-08812. The June 5 letter informed Plaintiff that "[t]he cut-off date is the date the search is initiated unless [the requester has] provided a specific timeframe." The June 5 letter also informed Plaintiff that the Department granted Plaintiff's request for a waiver of search and copying fees.

6. By letter dated February 12, 2014 (Exhibit 3), the Department informed Plaintiff that it searched the following offices and record systems in response to plaintiff's FOIA request: the Office of the Executive Secretariat, the Office of the Legal Adviser, the Bureau of Human Resources, and the Central Foreign Policy Records. The Department also released eight responsive records in part to Plaintiff, with certain information redacted under FOIA Exemption 6.¹

¹ All eight responsive records were retrieved from the Bureau of Human Resources. The search of the Office of the Executive Secretariat located six records responsive to the request, all of which were duplicates of the records located by the Bureau of Human Resources.

7. On March 14, 2014, after receiving these records from the Department, Plaintiff filed a Stipulation of Dismissal with Prejudice (ECF No. 12) under Fed. R. Civ. P.

41(a)(1)(A)(ii).

8. On June 19, 2015, this case was re-opened pursuant to Federal Rule of Civil Procedure 60(b)(2) in order for the Department to conduct certain supplemental searches for responsive records.

9. As conveyed in its status report dated July 30, 2015, the Parties reached agreement on search terms and a date range for the search of the approximately 55,000 pages of emails that the Department received from former Secretary Clinton (the "Clinton emails").² The search terms were <Huma OR Abedin> AND any of the following terms: contract OR employment OR SGE OR <Special Government Employee> OR <senior advisor>, and the date range was March 1, 2012 to August 3, 2012. The Department conducted searches of the Clinton emails, as well as searches of additional records received by that date from former Counselor and Chief of Staff Cheryl Mills and former Deputy Chief of Staff Huma Abedin, and no responsive records were located. The Department also agreed to conduct searches of any additional records to be received from Ms. Mills and Ms. Abedin, as well as to conduct a revised search of the records systems initially searched using the same search terms and date range agreed upon by the Parties for the Clinton email search.

10. By letter dated September 18, 2015 (Exhibit 4), the Department informed Plaintiff that it had initiated supplemental searches of the Office of the Executive Secretariat, the Office

² The number of pages provided by former Secretary Clinton was originally estimated as approximately 55,000. However, once the digitizing process was complete, the Department was able to provide a more precise count. Former Secretary Clinton provided 53,988 pages, of which approximately 1,533 were identified, in consultation with the National Archives and Records Administration, as entirely personal correspondence, that is, documents that are not federal records, leaving approximately 52,455 pages.

of the Legal Adviser, the Office of the Under Secretary for Management, the Bureau of Human Resources, and the Central Foreign Policy Records. With this letter the Department released 16 documents in full, 12 documents in part, and withheld 2 documents in full.³

11. By letter dated October 13, 2015 (Exhibit 5), the Department informed Plaintiff that it had completed its searches. With this letter, the Department released four documents in part and withheld one document in full.

12. By letter dated November 12, 2015 (Exhibit 6), the Department discretionarily re-released three documents, which had been previously produced to Plaintiff, in order to release additional material.

13. By letter dated November 13, 2015 (Exhibit 7), the Department released two documents in full and re-released one document in part that had previously been withheld in full.⁴

II. THE SEARCH PROCESS

14. When the Department receives a FOIA request, IPS evaluates the request to determine which offices, overseas posts, or other records systems within the Department may

³ In this letter IPS inadvertently stated that with regard to the records retrieved from the Office of the Executive Secretariat, the Department was releasing 2 documents in full and 10 documents in part. IPS actually released 10 documents in full and 2 documents in part.

⁴ These documents are public financial disclosure reports (OGE Form 278) for Ms. Abedin. During its supplemental search and review, the Department retrieved one seven-page OGE Form 278 for Ms. Abedin, which the Department withheld in full under (b)(3), pursuant to Section 105 of the Ethics in Government Act of 1978, 5 U.S.C. app. 105(b)(2). Section 105(b)(2) describes the particular procedures that must be followed in order for such reports to be made available, including the submission of an application that states the requester "is aware of the prohibitions on the obtaining or use of the report." 5 U.S.C. app. 105(b)(2)(C). By email on October 14, 2015, after the Department completed its productions in this case, counsel for Plaintiff informed the Department of Justice ("DOJ") counsel representing the State Department that JW had submitted such an application (OGE Form 201) to the Office of Government Ethics, attaching said application form. The DOJ counsel then sent the application form to the State Department. In this instance, to facilitate the court's review, the Department decided to release in part the OGE Form 278 initially withheld in full, redacting only Department officials' signatures under (b)(6). In the course of making this decision, the Department also identified another version of the form in its files. The Department retrieved this document, as well as a near duplicate of the first page of the document, and released them in full to Plaintiff. The Department has released all three records to Plaintiff.

reasonably be expected to contain the records requested. This determination is based on the description of the records requested and requires a familiarity with the holdings of the Department's records systems, applicable records disposition schedules, and the substantive and functional mandates of numerous Department offices and Foreign Service posts and missions.

15. Each office within the Department, as well as each Foreign Service post and mission, maintains files concerning foreign policy and other functional matters related to the daily operations of that office, post, or mission. These files consist generally of working copies of documents, information copies of documents maintained in the Central Foreign Policy Records collection, and other documents prepared by or furnished to the office in connection with the performance of its official duties, as well as electronic copies of documents and e-mail messages.

16. When conducting a search in response to a FOIA request, the Department relies on the knowledge and expertise of the employees of each bureau/office/post to determine the files and locations reasonably likely to house responsive records and the best means of locating such records, as these employees are in the best position to know how their files are organized.

17. In conducting the initial searches, IPS determined that the following offices or records systems were reasonably likely to have documents responsive to Plaintiff's request: the Office of the Executive Secretariat, the Office of the Legal Adviser, the Bureau of Human Resources, and the Central Foreign Policy Records. IPS initially concluded that no other offices or records systems were reasonably likely to maintain documents responsive to Plaintiff's request.

18. After the case was re-opened and in accordance with the Department's proposed revised searches in its July 30, 2015 status report, IPS re-tasked the Office of the Executive

Secretariat (including for a search of the Clinton emails), the Office of the Legal Adviser, and the Bureau of Human Resources to conduct supplemental searches for responsive records. IPS also conducted a supplemental search of the Central Foreign Policy Records and a search of the non-state.gov emails provided to the Department by Ms. Abedin and Ms. Mills. In addition, based in part upon a review of records retrieved in the revised search and upon the search terms agreed upon by the parties, IPS tasked the Office of the Under Secretary for Management, including its Office of the White House Liaison, to conduct a search for responsive records.

The Office of the Executive Secretariat

19. The Office of the Executive Secretariat Staff ("S/ES-S") is responsible for coordination of the work of the Department internally, serving as the liaison between the Department's bureaus and the offices of the Secretary, the Deputy Secretaries, and the Under Secretaries. It is generally responsible for coordinating search responses for the Office of the Secretary of State ("S"), the Office of the Deputy Secretary of State ("D"), the Office of the Deputy Secretary for Management and Resources ("D-MR"), the Office of the Under Secretary for Political Affairs ("P"), and the Counselor of the Department ("C").

20. A Management Analyst with knowledge of both the request and S/ES-S records systems conducted a search of S/ES-S electronic records systems reasonably likely to contain responsive records. These systems include the Secretariat Tracking and Retrieval System ("STARS")⁵ and Everest.⁶ These systems' search capabilities are wildcard-based, meaning that

⁵ STARS is an automated system used to track, control, and record documents containing substantive foreign policy information passing to, from, and through the offices of the Secretary of State, the Deputy Secretaries of State, the Under Secretaries of State, and the Counselor of the Department. Original documents are indexed, scanned, and stored as images in STARS. Information in STARS covers the period 2002 to 2014. For searches of STARS, the search terms are applied to a descriptive abstract attached to each document. Each abstract is created by a Technical

common variations of the keywords being searched would be retrieved (e.g., a search for "directive" would produce "directive's"). The S/ES-S Management Analyst also coordinated a search of the state.gov e-mail records of Ms. Mills, Ms. Abedin, former Administrative Officer for S/ES Cynthia Motley, and former Senior Advisor in the Office of the White House Liaison Heather Samuelson. An Administrative Officer in S/ES-EX conducted a manual search of Ms. Abedin's personnel file, which is kept in paper form within the Human Resources component of S/ES. For both the databases and the email records, S/ES used the Parties' agreed upon search terms, namely <Huma OR Abedin> AND any of the following terms: contract OR employee OR SGE OR <special government employee> OR <senior adviser>, for the date range March 1, 2012 to August 3, 2012.

21. This search resulted in the retrieval of 14 responsive records. The Department released 10 documents in full and 4 documents in part.

The Office of the Legal Adviser

22. The Office of the Legal Adviser ("L") furnishes advice on all legal issues, domestic and international, arising in the course of the Department's work. This includes assisting Department principals and policy officers in formulating and implementing the foreign policies of the United States, and promoting the development of international law and its institutions as a fundamental element of those policies. The Office is organized to provide direct legal support to the Department of State's various bureaus, including both regional and geographic offices (those which focus on specific areas of the world) and functional offices

Information Specialist when the document is added to the database; this abstract is designed to capture the subject matter of the related document. The abstracts are the only portion of STARS database whose text can be searched.⁶ Everest is a Microsoft SharePoint based enterprise system used to task, track, control and archive documents containing substantive foreign policy information passing to, from, and through the offices of the Secretary of State, the Deputy Secretaries of State and other Department principal officers. The documents in Everest are full-text searchable. The information in Everest covers information not in STARS for the period 2015 to the present.

(those which deal with specific subject matters such as economics and business, international environmental and scientific issues, or internal management).

23. The L Records Manager with knowledge of both the FOIA request at issue and L's records systems determined that the only L components reasonably likely to maintain responsive records were the Office for Ethics and Financial Disclosures ("L/EFD"), the Office of Employment Law ("L/EMP"), and the Front Office ("L/FO").

24. L/EFD advises the Department and its employees on ethics laws and regulations applicable to Executive Branch employees, including employee acceptance of gifts, participation in outside activities, avoidance of conflicts of interest, avoidance of appearance of partiality, and seeking post-government employment. The office also advises on laws and policies related to employee participation in partisan political activities under the Hatch Act and related regulations. L/EFD manages the Department's financial disclosure reporting program, including review and certification of the reports for Presidential Appointees and other OGE-278 and OGE-450 filers.

25. A program manager with knowledge of both the FOIA request at issue and L/EFD's records systems coordinated a search of the office's limited amount of paper records and its electronic records.⁷ The paper records, which are organized in subject matter folders, were manually searched for any potentially responsive records. L/EFD's electronic records systems include Content Server,⁸ the Financial Tracking Disclosure System, an office shared drive, archived emails, and the relevant state.gov email accounts of attorneys and staff within L/EFD. L/EFD searched these electronic records systems using the Parties' agreed upon search

⁷ The majority of L/EFD's subject matter folders are stored electronically, although a small few remain in paper.

⁸ Content Server, L's Electronic Records Management System ("ERMS"), contains L's pertinent subject files, country files, and case files, typically of a permanent nature. It is the "official" repository for permanent or long term electronic records.

terms, namely <Huma OR Abedin> AND any of the following terms: contract OR employee OR SGE OR <special government employee> OR <senior adviser>, as well as "Huma Abedin" and "Abedin" as standalone terms, for the date range March 1, 2012 to August 3, 2012.

26. L/EMP provides legal advice to those involved in the management of the Department's human resources and labor relations. Attorneys in L/EMP also represent the Department in proceedings before the Equal Employment Opportunity Commission, Merit System Protection Board, and Foreign Service Grievance Board and assist the Department of Justice with employment litigation in Federal courts.

27. An attorney adviser with knowledge of both the FOIA request at issue and L/EMP's records systems coordinated a search of the office's electronic records. L/EMP does not maintain any paper files reasonably likely to contain records responsive to this request. L/EMP's electronic records systems include Content Server and the state.gov email accounts of all attorney-advisers within L/EMP. For the electronic records, L/EMP used the Parties' agreed upon search terms, namely <Huma OR Abedin> AND any of the following terms: contract OR employee OR SGE OR <special government employee> OR <senior adviser>, for the date range March 1, 2012 to August 3, 2012.

28. L/FO is responsible for overseeing the sub-offices within L.

29. A paralegal with knowledge of both the FOIA request at issue and L/FO's records systems identified the email account and archived emails of the Deputy Legal Advisor responsible for overseeing L/EFD and L/EMP as the only location within L/FO reasonably likely to maintain records responsive to this request. The Deputy Legal Advisor does not maintain any paper files reasonably likely to contain records responsive to this request. The paralegal searched his emails and archived emails using the Parties' agreed upon search terms, namely

<Huma OR Abedin> AND any of the following terms: contract OR employee OR SGE OR <special government employee> OR <senior adviser>, for the date range March 1, 2012 to August 3, 2012.

30. L located 23 responsive, non-duplicative documents as a result of these searches. The Department released 8 documents in full, 13 documents in part, and withheld 2 documents in full.

The Bureau of Human Resources

31. The Bureau of Human Resources ("HR") has the critical responsibility of hiring, developing, assigning, and supporting the Department's employees. An employee who was knowledgeable of both the FOIA request at issue and HR's records systems determined that the only records systems reasonably likely to maintain responsive records were HR Online and the Global Employment Management System ("GEMS") (as noted above, S/ES has its own Human Resources component). HR Online is the system that serves as HR's main web-portal. Contained within HR Online is Ms. Abedin's electronic Official Personnel Folder ("eOPF"). The eOPF system, which is managed by HR's Records and Information Management Division, contains documents pertaining to HR administration, employee performance, and retirement, including Standard Form 50s (Notifications of Personnel Actions) ("SF-50s") for Department employees. GEMS is the primary Human Resources Management application and centralized personnel database for the Department.

32. An information specialist with knowledge of both the FOIA request at issue and HR's records systems conducted a search of HR Online and GEMS using Ms. Abedin's first name, last name, social security number, and employee ID because these terms are the only

terms that may be used to retrieve information in these systems. This search was conducted for the date range March 1, 2012 to August 3, 2012.

33. These searches did not locate any responsive, non-duplicative documents.

The Office of the Under Secretary for Management

34. The Under Secretary for Management ("M") oversees the activities of 10 bureaus and offices that are responsible for management improvement initiatives; security; the Department's information technology infrastructure; support services for domestic and overseas operations; consular affairs; and personnel matters, including, recruitment, career development, training, medical services, and retirement programs.

35. A Staff Assistant with knowledge of both the FOIA request at issue and M's records systems coordinated a search of M's electronic records. M maintains only electronic files. M's electronic records are organized by date and topic and consist of e-mails, including archived e-mails, and the Everest database. The Staff Assistant conducted a search of the Everest database. The Under Secretary, the Executive Assistant, and the Staff Assistant in the M Front Office conducted searches of their state.gov email accounts. All of the searches of M's electronic records were conducted using the Parties' agreed upon search terms, namely <Huma OR Abedin> AND any of the following terms: contract OR employee OR SGE OR <special government employee> OR <senior adviser>, for the date range March 1, 2012 to August 3, 2012.

36. M's Office of White House Liaison ("M/WHL") advises, assists, and facilitates all non-career appointments within the Department, including Presidential Appointees requiring Senate confirmation ("PAS"), Presidential Appointees ("PA"), Non-Career Senior Executive Service ("NC-SES"), and Schedule C (GS-Level) appointees. In addition, M/WHL is

responsible for coordination between the Department and the White House on the selection and appointment of all boards, commissions, Presidential delegations, and conferences.

37. The director with knowledge of both the FOIA request at issue and M/WHL's records systems coordinated a search of M/WHL's electronic and paper records. The paper records maintained in M/WHL are organized by date and subject and were manually searched for any potentially responsive records. M/WHL's electronic records consist of a shared drive, which was searched using the search terms "Huma" and "Abedin"⁹ for the date range March 1, 2012 to August 3, 2012.

38. The searches of M and M/WHL did not locate any responsive, non-duplicative documents.

The Central Foreign Policy Records

39. The records of the Department are maintained in both centralized and decentralized records systems. The Central Foreign Policy Records (or "Central File") is the Department's centralized records system and contains over 30 million records of a substantive nature that establish, discuss, or define foreign policy, set precedents, or require action or use by more than one office. Among other records, the Central File includes official record copies of almost all incoming and outgoing cables between the Department and Foreign Service posts, as well as other select substantive correspondence records, including: diplomatic notes; correspondence to and from the White House, members of Congress, and other federal agencies; position papers and reports; memoranda of conversations; and interoffice memoranda. Searches of the Central File are conducted through an automated interface, known as the State Archiving System ("SAS"), which searches the full text of millions of cables and other substantive

⁹ These terms are broader than the Parties' agreed upon terms, and thus potentially would retrieve more records.

correspondence documents in the Central File. For all documents in the Central File that are not directly full-text searchable through SAS, including some older correspondence, SAS will search the text of a customized reference index that directs a searcher to a full copy of the document. Thus, a SAS search will encompass all documents in the Central File.

40. An IPS analyst with knowledge of both the request and the Central Foreign Policy Records system conducted a full-text search of the Central File using the Parties' agreed upon search terms, namely <Huma OR Abedin> AND any of the following terms: contract OR employee OR SGE OR <special government employee> OR <senior adviser>, for the date range March 1, 2012 to August 3, 2012.

41. These searches did not locate any responsive, non-duplicative documents.

Non-State.Gov Accounts

42. The Department determined that the records provided to the Department from non-state.gov email accounts of former Secretary Clinton,¹⁰ Ms. Abedin¹¹ and Ms. Mills¹² were

¹⁰ On December 5, 2014, former Secretary Clinton provided the Clinton emails (as defined above) in response to a request from the Department that, if former Secretaries or their representatives were "aware or [were to] 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." See Defendant's Notice of Filing dated August 6, 2015, Exh. A at 1-3.

¹¹ In response to a letter requesting that Ms. Abedin provide to the Department any federal records in her possession concerning official government business sent or received on a personal email account while serving in her official capacity with the Department, Ms. Abedin made three separate submissions of documents; the last submission arrived on September 1, 2015. Ms. Abedin provided the following types of documents: (1) three PDFs containing emails, memos, daily schedules, call lists, notes, and other types of documents, and (2) 6,714 individual PDFs, each containing one email of varying lengths. The Department received approximately 29,000 pages of documents from Ms. Abedin.

¹² In response to a letter requesting that Ms. Mills provide to the Department any federal records in her possession concerning official government business sent or received on a personal email account while serving in her official capacity with the Department, Ms. Mills made three separate submissions of documents to the Department; the last submission arrived on August 12, 2015. Ms. Mills provided the following types of documents: (1) approximately 675 emails of varying lengths; (2) approximately 1,370 electronic documents of various other types, such as word and PowerPoint files; and (3) one cubic foot box of paper documents, consisting of 1,865 pages, which have been scanned into PDF files. Using estimates of 3 pages per email and 5 pages per other type of document, the Department received a total of approximately 10,740 pages of documents from Ms. Mills.

reasonably likely to contain responsive information and voluntarily agreed to search these records that State did not possess or control at the time of the FOIA request.

43. An S/ES-S Management Analyst with knowledge of both the request and the relevant records system conducted a full-text search of agency records in the Clinton email collection using a combination of the Windows Explorer search function and the Adobe Reader search function. The analyst searched these electronic records using the Parties' agreed upon search terms, namely <Huma OR Abedin> AND any of the following terms: contract OR employee OR SGE OR <special government employee> OR <senior adviser>, for the date range March 1, 2012 to August 3, 2012.

44. An IPS analyst with knowledge of both the request and the relevant records systems conducted a full-text search of the records provided to the Department from Ms. Mills and Ms. Abedin using a combination of the Windows Explorer search function and the Adobe Reader search function. The analyst searched these electronic records using the Parties' agreed upon search terms, namely <Huma OR Abedin> AND any of the following terms: contract OR employee OR SGE OR <special government employee> OR <senior adviser>, for the date range March 1, 2012 to August 3, 2012.

45. These searches did not locate any responsive, non-duplicative documents.

III. EXEMPTIONS CLAIMED

46. As a result of its supplemental searches, the Department released 18 documents in full, released 17 documents in part, and withheld 2 documents in full. Where the Department withheld information, it did so pursuant to FOIA Exemptions 3 and 6, 5 U.S.C. §§ 552(b)(3) and (b)(6).

FOIA Exemption (b)(3) – Exempt by Statute

47. 5 U.S.C. § 552(b)(3) states that the FOIA does not apply to matters that are:

specifically exempted from disclosure by statute (other than Section 552(b) of this title), provided that such statute- (A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and (B) if enacted after the date of enactment of the Open FOIA Act of 2009, specifically cites to this paragraph.

48. The Department has withheld two documents in full under Exemption 3, pursuant to the Ethics in Government Act of 1978.

Section 107 of the Ethics in Government Act of 1978

49. Section 107 of the Ethics in Government Act of 1978, 5 U.S.C. App. 107, relates to confidential financial disclosure reports required to be provided by certain government employees. 5 U.S.C. App. 107(a)(2) states:

Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.

50. Section 107(a) of the Ethics in Government Act of 1978 qualifies as a withholding statute under Exemption 3, 5 U.S.C. § 552(b)(3).

51. OGE Form 450, Confidential Financial Disclosure Report, is covered by Section 107(a) of the Ethics in Government Act of 1978. The Department has withheld in full two OGE Form 450s that are exempt from disclosure under Exemption 3 pursuant to Section 107(a) of the Ethics in Government Act of 1978.

FOIA Exemption (b)(6) – Personal Privacy

52. 5 U.S.C. § 552(b)(6) states that the FOIA does not apply to:

...personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy....

53. The courts have interpreted the language of Exemption 6 broadly to encompass all information that applies to an individual without regard to whether it was located in a particular type of file. As described below, in the documents withheld in full, the Department has withheld certain personal information, such as personal financial information and signatures of Department officials, under Exemption 6.

54. Inasmuch as the information withheld is personal to an individual, there is clearly a privacy interest involved. I am required, therefore, to determine whether there exists any public interest in disclosure and to weight any such interest against the extent of the invasion of privacy.

55. In *United States Department of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749 (1989), the Supreme Court laid down two rules for determining public interest in disclosure of information involving a privacy interest: (1) whether disclosure would serve the "core purpose" for which Congress enacted the FOIA, i.e., to show "what the government is up to," and (2) that public interest means the interest of the public in general, not particular interests of the person or group seeking the information. Accordingly, the identity of the requester as well as the purpose for which the information is sought is irrelevant in making the disclosure determination.

56. As for all of the information withheld pursuant to Exemption 6, I have concluded that (1) disclosure of the information withheld would result in a clearly unwarranted invasion of personal privacy; and (2) disclosure of the information would not serve the "core purpose" of the FOIA, i.e., it would not disclose information about "what the government is up to."

Accordingly, I have determined that the privacy interests clearly outweigh any public interest in disclosure of such personal information, as further described below.

IV. DOCUMENT DESCRIPTIONS FOR WITHHELD MATERIAL

57. Documents C05858653 and C05858682 are two-page and one-page, respectively, Confidential Financial Disclosure Reports (OGE Form 450) for Ms. Abedin. Both documents are designated UNCLASSIFIED. OGE Form 450s are used by executive branch employees who are less senior than public filers to report their financial interests as well as other interests outside the Government. The purpose of this report is to assist employees and their agencies in avoiding conflicts between duties and private financial interests or affiliations. The types of information sought include: reportable assets or sources of income for the filers, the filer's spouse, or the filer's dependent children; reportable liabilities for the filer, the filer's spouse, or the filer's dependent children; reportable outside positions for the filer; and reportable agreements or arrangements for the filers.¹³ The Department has withheld these documents in full under Exemption 3, 5 U.S.C. § 552(b)(3), pursuant to Section 107(a) of the Ethics in Government Act of 1978, 5 U.S.C. App. 107(a), to protect confidential financial information disclosed to the Department. All information provided in these forms is statutorily exempt from public release. In addition, the Department has asserted Exemption 6, 5 U.S.C. § 552(b)(6), over certain personal information contained in these documents, namely Ms. Abedin's reportable assets and income, as well as the signatures of the filing employee and the agency's final reviewing official. The details of Ms. Abedin's assets and income are personal financial details the release of which could result in unsolicited attention and would shed no additional light on

¹³ For a blank copy of the OGE Form 450, see <http://www.oge.gov/Forms-Library/OGE-Form-450--Confidential-Financial-Disclosure-Report/>.

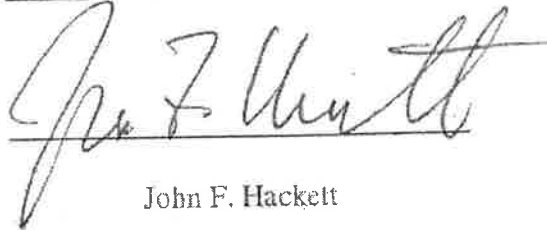
the conduct of government business. The release of the signatures could result in identity theft and would shed no additional light on the conduct of governmental business. The Department conducted a line-by-line review of the document and determined that there is no additional reasonably segregable, non-exempt material that could be released.

V. CONCLUSION

58. In summary, the Department retrieved 37 records responsive to this FOIA request as a result of its supplemental searches. The Department released 18 documents in full, 17 documents in part, and withheld 2 documents in full. The Department has carefully reviewed all of the documents addressed herein for reasonable segregation of non-exempt information and has implemented segregation when possible. Otherwise, the Department determined that no segregation of meaningful information in the documents could be made without disclosing information warranting protection under the law.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 13th day of November 2015, Washington, D.C.

A handwritten signature in cursive script, appearing to read "John F. Hackett", written over a horizontal line.

John F. Hackett



**Judicial
Watch**
*Because no one
is above the law!*

F-2013-08812

May 21, 2013

VIA CERTIFIED MAIL & FACSIMILE (202-261-8579)

Office of Information Programs and Services
A/GIS/IPS/RL
U. S. Department of State
Washington, D. C. 20522-8100

Re: Freedom of Information Act Request

Dear Freedom of Information Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, Judicial Watch, Inc. hereby requests that the Department of State produce the following within twenty (20) business days:

- 1. Any and all SF-50 (Notification of Personnel Action) forms for Ms. Huma Abedin.**
- 2. Any and all contracts (including, but not limited to, personal service contracts) between the Department of State and Ms. Huma Abedin.**
- 3. Any and all records regarding, concerning, or related to the authorization for Ms. Huma Abedin to represent individual clients and/or otherwise engage in outside employment while employed by and/or engaged in a contractual arrangement with the Department of State.**

The time frame for this request is January 1, 2010 to the present.

If any responsive record or portion thereof is claimed to be exempt from production under FOIA, please provide sufficient identifying information with respect to each allegedly exempt record or portion thereof to allow us to assess the propriety of the claimed exemption. *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974). In addition, any reasonably segregable portion of a responsive record must be provided, after redaction of any allegedly exempt material. 5 U.S.C. § 552(b).

For purposes of this request, the term "record" shall mean: (1) ~~any written~~, printed, or typed material of any kind, including without limitation all correspondence, memoranda, notes, messages, letters, cards, facsimiles, papers, forms, telephone

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May 21, 2013

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messages, diaries, schedules, calendars, chronological data, minutes, books, reports, charts, lists, ledgers, invoices, worksheets, receipts, returns, computer printouts, printed matter, prospectuses, statements, checks, statistics, surveys, affidavits, contracts, agreements, transcripts, magazine or newspaper articles, or press releases; (2) any electronically, magnetically, or mechanically stored material of any kind, including without limitation all electronic mail or e-mail; (3) any audio, aural, visual, or video records, recordings, or representations of any kind; (4) any graphic materials and data compilations from which information can be obtained; and (5) any materials using other means of preserving thought or expression.

Judicial Watch also hereby requests a waiver of both search and duplication fees pursuant to 5 U.S.C. §§ 552(a)(4)(A)(ii)(II) and (a)(4)(A)(iii). Judicial Watch is entitled to a waiver of search fees under 5 U.S.C. § 552(a)(4)(A)(ii)(II) because it is a member of the news media. *Cf. National Security Archive v. Department of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989)(defining news media within FOIA context). Judicial Watch has also been recognized as a member of the news media in other FOIA litigation. *See, e.g., Judicial Watch, Inc. v. U.S. Department of Justice*, 133 F. Supp.2d 52 (D.D.C. 2000); and, *Judicial Watch, Inc. v. Department of Defense*, 2006 U.S. Dist. LEXIS 44003, *1 (D.D.C. June 28, 2006). Judicial Watch regularly obtains information about the operations and activities of government through FOIA and other means, uses its editorial skills to turn this information into distinct works, and publishes and disseminates these works to the public. It intends to do likewise with the records it receives in response to this request.

Judicial Watch also is entitled to a complete waiver of both search fees and duplication fees pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Under this provision, records:

shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of government and is not primarily in the commercial interest of the requester.

5 U.S.C. § 552(a)(4)(A)(iii).

In addition, if records are not produced within twenty (20) business days, Judicial Watch is entitled to a complete waiver of search and duplication fees under Section 6(b) of the OPEN Government Act of 2007, which amended FOIA at 5 U.S.C. § (a)(4)(A)(viii).

Judicial Watch is a 501(c)(3), not-for-profit, educational organization, and, by definition, it has no commercial purpose. Judicial Watch exists to educate the public

Department of State

May 21, 2013

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about the operations and activities of government, as well as to increase public understanding about the importance of ethics and the rule of law in government. The particular records requested herein are sought as part of Judicial Watch's ongoing efforts to document the operations and activities of the federal government and to educate the public about these operations and activities. Once Judicial Watch obtains the requested records, it intends to analyze them and disseminate the results of its analysis, as well as the records themselves, as a special written report. Judicial Watch will also educate the public via radio programs, Judicial Watch's website, and/or newsletter, among other outlets. It also will make the records available to other members of the media or researchers upon request. Judicial Watch has a proven ability to disseminate information obtained through FOIA to the public, as demonstrated by its long-standing and continuing public outreach efforts.

Given these circumstances, Judicial Watch is entitled to a public interest fee waiver of both search costs and duplication costs. Nonetheless, in the event our request for a waiver of search and/or duplication costs is denied, Judicial Watch is willing to pay up to \$350.00 in search and/or duplication costs. Judicial Watch requests that it be contacted before any such costs are incurred, in order to prioritize search and duplication efforts.

In an effort to facilitate record production within the statutory time limit, Judicial Watch is willing to accept documents in electronic format (e.g. e-mail, .pdfs). When necessary, Judicial Watch will also accept the "rolling production" of documents.

If you do not understand this request or any portion thereof, or if you feel you require clarification of this request or any portion thereof, please contact us immediately at 202-646-5172 or sdunagan@judicialwatch.org. We look forward to receiving the requested documents and a waiver of both search and duplication costs within twenty (20) business days. Thank you for your cooperation.

Sincerely,



Sean Dunagan
Judicial Watch



United States Department of State

Washington, D.C. 20520

JUN 05 2013

Dear Requester,

RE: Records regarding Ms. Huma Abedin

This is in response to your request dated 5-21-13. We have assigned Case Control Number F-2013-08812 and will begin the processing of your request based upon the information provided in your communication.

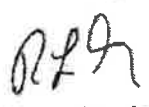
The cut-off date is the date the search is initiated unless you have provided a specific timeframe.

Unusual circumstances (including the number and location of Department components involved in responding to your request, the volume of requested records, etc.) may arise that would require additional time to process your request.

We will notify you as soon as responsive material has been retrieved and reviewed.

Should you have any questions, you may call our FOIA Requester Service Center at (202) 261-8484 or send an email to FOIAstatus@state.gov. Please refer to the Case Control Number in any communication.

Sincerely,

For Mary Therese Casto 
Chief, Requester Communications Branch

Office of Information Programs and Services
U.S. Department of State, SA-2
Washington, DC 20522-8100
Website: www.foia.state.gov

Inquiries:
Phone: 1-202-261-8484
FAX: 1-202-261-8579
E-mail: FOIAStatus@state.gov

Hackett DECLARATION
Civil Action No 1:13-cv-1363
Exhibit 2



United States Department of State

Washington, D.C. 20520

FEB 12 2014

Case No. F-2013-08812

Segment: HR-0001

Mr. Sean A Dunagan
Judicial Watch
425 Third Street SW, Suite 800
Washington, DC 20024

Dear Mr. Dunagan:

In response to your request dated May 21, 2013 under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552, we have completed searches of the following Department of State (the "Department") records systems: the Central Foreign Policy Records (the principal records system of the Department), the Bureau of Human Resources, the Office of the Executive Secretariat, and the Office of the Legal Adviser.

Searches of these Department components have resulted in the retrieval of eight documents responsive to your request. After reviewing these documents, we have determined that all eight may be released in part. All released material is enclosed.

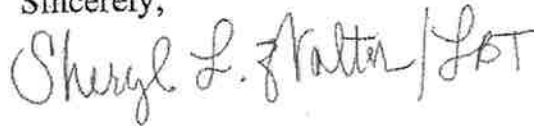
Where we have made excisions, the applicable exemptions are marked on each document. All eight documents released in part contain information withheld under Exemption 6, 5 U.S.C. § 552(b)(6). An enclosure explains FOIA exemptions and other grounds for withholding material.

As these records are subject to pending litigation, there is no administrative appeal available. See 22 C.F.R. § 171.52(a).

- 2 -

This concludes our processing of the case. If you have any questions, please contact Trial Attorney Peter Wechsler at (202) 514-2705 or Peter.Wechsler@usdoj.gov.

Sincerely,

A handwritten signature in dark ink, reading "Sheryl L. Walter / LWT". The signature is written in a cursive, flowing style.

Sheryl L. Walter, Director
Office of Information Programs and Services

Enclosures:
As stated.



United States Department of State
Washington, D.C. 20520

SEP 18 2015

Case No. F-2013-08812
Segments: L-0002, S/ES-0001

Sean A. Dunagan
Judicial Watch
425 Third Street, SW Suite 800
Washington, DC 20024

Dear Mr. Dunagan:

I refer to our letter dated February 12, 2014 regarding the release of certain Department of State material under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552, we initiated a supplemental search of the following Department of State record systems: the Office of the Executive Secretariat, the Office of the Legal Adviser, the Office of the Under Secretary for Management, the Bureau of Human Resources, and the Central Foreign Policy Records.

The search of the records of the of the Under Secretary for Management, the Bureau of Human Resources, and the Central Foreign Policy Records did not retrieve any new responsive or non-duplicative records.

The search of the Office of the Legal Adviser is complete. We have thus far reviewed 18 responsive records and have determined that 6 may be released in full, 10 may be released with excisions, and 2 must be withheld in full. All released material is enclosed.

The search of the Office of the Executive Secretariat is ongoing. We have thus far reviewed 12 responsive records and have determined that 2 may be released in full and 10 may be released with excisions. All released material is enclosed.

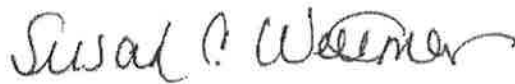
An enclosure explains FOIA exemptions and other grounds for withholding material. Where we have made excisions, the applicable exemptions are marked on each document. The two documents withheld in full, are being withheld under FOIA Exemptions 3, 5 U.S.C. §§ 107(a) Ethics in Government Act of

- 2 -

1978 (b)(3). All non-exempt material that is reasonably segregable from the exempt material has been released.

We will keep you informed as your case progresses. If you have any questions, you may contact Peter Wechsler, Trial Attorney, at (202) 514-2705 or Peter.Wechsler@usdoj.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Susan P. Wechsler".

John F. Hackett, Director
Office of Information Programs and Services

Enclosures:
As stated.



United States Department of State
Washington, D.C. 20520

OCT 13 2015

Case No. F-2013-08812
Segments: L-0002, S/ES-0002

Sean A. Dunagan
Judicial Watch
425 Third Street, SW Suite 800
Washington, DC 20024

Dear Mr. Dunagan:

I refer to our letter dated September 18, 2015 regarding the release of certain Department of State material under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552.

The review of records retrieved from the Office of the Legal Adviser is complete. We have reviewed three additional responsive records and have determined that two may be released with excisions, and one must be withheld in full. All released material is enclosed.

The search of the Office of the Executive Secretariat is complete. We have reviewed 2 additional responsive records and have determined that both may be released with excisions. All released material is enclosed.

An enclosure explains FOIA exemptions and other grounds for withholding material. Where we have made excisions, the applicable exemptions are marked on each document. The document withheld in full is being withheld under FOIA Exemption 3, 5 U.S.C. §552(b)(3), pursuant to the Ethics in Government Act of 1978, 5 U.S.C. app. §105. All non-exempt material that is reasonably segregable from the exempt material has been released.

Please be advised that this completes our processing of your request. If you have any questions, your attorney may contact Peter Wechsler, Trial Attorney, at (202) 514-2705 or Peter.Wechsler@usdoj.gov.

Sincerely,

John F. Hackett

John F. Hackett, Director
Office of Information Programs and Services

Enclosures: As stated.



United States Department of State

Washington, D.C. 20520

NOV 12 2015

Case No. F-2013-08812

Sean A. Dunagan
Judicial Watch
425 Third Street, SW Suite 800
Washington, DC 20024

Dear Mr. Dunagan:

I refer to our letter dated October 13, 2015 regarding the release of certain Department of State material under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552.

The Department re-reviewed material that was initially released in part in this case and identified certain additional information that may be released as a matter of discretion in documents C05858627, C05858640, and C05858654. These documents are enclosed.

An enclosure explains FOIA exemptions and other grounds for withholding material. Where we have made excisions, the applicable exemptions are marked on the document. All non-exempt material that is reasonably segregable from the exempt material has been released.

Please be advised that this completes our processing of your request. If you have any questions, your attorney may contact Peter Wechsler, Trial Attorney, at (202) 514-2705 or Peter.Wechsler@usdoj.gov.

Sincerely,

Swad C. Wechsler for

John F. Hackett, Director
Office of Information Programs and Services

Enclosures: As stated.



United States Department of State

Washington, D.C. 20520

NOV 13 2015

Case No. F-2013-08812

Sean A. Dunagan
Judicial Watch
425 Third Street, SW Suite 800
Washington, DC 20024

Dear Mr. Dunagan:

I refer to our letter dated November 12, 2015 regarding the release of certain Department of State material under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552.

The Department has recently become aware of your application requesting certain documents under Section 105(b)(2) of the Ethics in Government Act of 1978. We have thus re-reviewed document C05858660, which was initially withheld in full, and determined that it may now be released in part as a matter of discretion. In the course of making this decision, the Department has also retrieved two additional documents from the Office of the Legal Adviser – documents C05904362 and C05904363. These are being released in full in the form in which they were retrieved from the Office of the Legal Adviser's records systems. These documents are enclosed.

An enclosure explains FOIA exemptions and other grounds for withholding material. Where we have made excisions, the applicable exemptions are marked on the document. All non-exempt material that is reasonably segregable from the exempt material has been released.

Please be advised that this completes our processing of your request. If you have any questions, your attorney may contact Peter Wechsler, Trial Attorney, at (202) 514-2705 or Peter.Wechsler@usdoj.gov.

Sincerely,

Swal C. Wechsler for

John F. Hackett, Director
Office of Information Programs and Services

Enclosures: As stated.

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

JUDICIAL WATCH, INC.,

Plaintiff,

v.

U.S. DEPARTMENT OF STATE,

Defendant.

No. 13-cv-1363-EGS

FOURTH DECLARATION OF JOHN F. HACKETT

Pursuant to 28 U.S.C. § 1746, I, John F. Hackett, declare and state as follows:

1. I am the Director of the Office of Information Programs and Services ("IPS") of the United States Department of State (the "Department" or "State"). In this capacity, I am the Department official immediately responsible for responding to requests for records under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552, the Privacy Act of 1974, 5 U.S.C. § 552a, and other applicable records access provisions. I have been employed by the Department in this capacity since June 2015, and prior to that, I served as the Deputy Director of IPS since April 2013, and Acting Director since March 2014. As the IPS Director, I am authorized to classify and declassify national security information. I make the following statements based upon my personal knowledge, which in turn is based upon a personal review of the records in the case file established for processing the subject request and upon information furnished to me in the course of my official duties. I am familiar with the efforts of Department personnel to process the subject requests, and I am in charge of coordinating the agency's search and recovery efforts with respect to those requests.

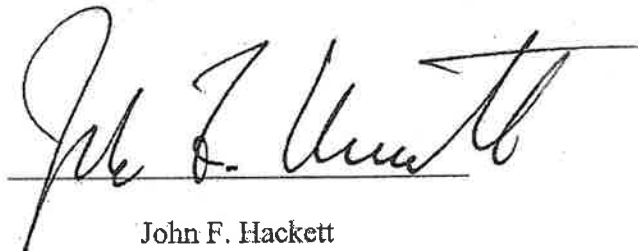
2. This declaration supplements the Department's search descriptions provided in my prior declaration filed on November 13, 2015.

3. The Department informed the Court in its Memorandum of Points and Authorities in Opposition to Plaintiff's Motion for Discovery Pursuant to Rule 56(d) of the Federal Rules of Civil Procedure, filed January 8, 2016, that "After State filed its motion for summary judgment in this case, State located additional sources of documents that originated within the Office of the Secretary that are reasonably likely to contain records responsive to Plaintiff's [FOIA] request. State has informed Plaintiff that it intends to search these locations, produce non-exempt portions of any responsive records, and file a supplemental declaration in support of its motion for summary judgment (which is presently stayed)." These additional sources of documents consist of shared electronic office folders that were available to employees within the Office of the Secretary during former Secretary Clinton's tenure ("shared office folders"), as well as individual electronic folders of files belonging to Huma Abedin and Cheryl Mills ("individual folders").

4. The Department has completed its search of these records. An IPS analyst with knowledge of the FOIA request and the records systems containing the shared office folders and individual folders conducted a full-text electronic search using the Parties' agreed upon search terms, namely <Huma OR Abedin> AND any of the following terms: contract OR employee OR SGE OR <special government employee> OR <senior adviser>, for the agreed upon date range of March 1, 2012 to August 3, 2012. These searches did not locate any responsive, non-duplicative documents.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 19th day of February 2016, Washington, D.C.

A handwritten signature in black ink, appearing to read "John F. Hackett", written over a horizontal line.

John F. Hackett

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

JUDICIAL WATCH, INC.,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
STATE,

Defendant.

Civil Action No. 13-CV-1363 (EGS)

**DEFENDANT'S RESPONSES AND OBJECTIONS TO
PLAINTIFF'S INTERROGATORIES**

In accordance with Rule 33 of the Federal Rules of Civil Procedure, Defendant United States Department of State, by and through undersigned counsel, hereby responds to Plaintiff's Interrogatories:

INTERROGATORY NO. 1:

Who was responsible for processing and/or responding to record requests, including FOIA requests, concerning emails of Mrs. Clinton and other employees of the Office of the Secretary?

Response: The State Department objects to this interrogatory as vague and overbroad on the grounds that it fails to define "responsible" or "concerning"; does not define a relevant time period; and does not identify any individual in the Office of the Secretary, of which there were many who served over the years. The State Department additionally objects to this interrogatory to the extent that it seeks information on FOIA requests unrelated to Secretary Clinton or Huma Abedin, the individuals identified in the Court's May 4, 2016 Order on the scope of discovery. The State Department further objects to this interrogatory to the extent it seeks information

regarding processing and/or responding to non-FOIA record requests, which is beyond the scope of discovery as ordered by the Court. Without waiving its objections, the State Department provides the following response, which provides information about offices and individuals who had management responsibility for processing FOIA requests related to Secretary Clinton and Huma Abedin between January 21, 2009 (the date Secretary Clinton took office) and February 19, 2016 (the date on which the State Department filed its final search declaration in this matter).

The Office of Information Programs and Services (“IPS”) serves as the primary point of contact and principal advisor on all matters concerning the management of information, including with respect to requests pursuant to the Freedom of Information Act (“FOIA”). 1 FAM 214.2(b). The Director of IPS is responsible for processing and responding to requests for access to information under the FOIA. 22 C.F.R. 171.11. The IPS Directors from January 2009 to February 2016 were: Margaret Grafeld (from before January 2009 to March 2010), Alex Galovich and Charlene Thomas (Acting Co-Directors from March 2010 – December 2011), Sheryl Walter (December 2011 – March 2014); and John Hackett (Acting Director: March 2014 – June 2015; Director: June 2015 – March 2016).

Upon receipt of a FOIA request, IPS staff evaluate the request to determine which offices, overseas posts, or other records systems within the Department may reasonably be expected to contain the records requested. A FOIA request concerning emails of former Secretary Clinton and/or Ms. Abedin was typically sent to the Office of Correspondence and Records of the Executive Secretariat (“S/ES-CR”). S/ES-CR had day-to-day responsibility for records management and research, including conducting and coordinating searches in response to FOIA requests. *See* 1 FAM 022.2-3 (August 6, 2001). During former Secretary Clinton’s and Ms. Abedin’s tenures, the Director of S/ES-CR was Clarence Finney. Effective January 21,

2013, S/ES-CR was merged with another Executive Secretariat office, the Executive Secretariat Staff ("S/ES-S"). Currently, the Correspondence, Records, and Staffing Division of S/ES-S is responsible for proper records management of documents for Department principals, as well as retrieval of archived documents upon request. 1 FAM 022.2-2(2). Clarence Finney has held the position of Deputy Director of S/ES-S and head of the Correspondence, Records, and Staffing Division from the time of the merger to the present. The Directors of S/ES-S since the time of the merger have been Paul Horowitz (January 2013 – March 2014), MaryKay Carlson (March 2014 – November 2014), Mary Katherine Stana (December 2014 – July 2015) and Karin Lang (July 2015 to the present).

INTERROGATORY NO. 2:

Who was responsible for the inventorying or other accounting of Mrs. Clinton's and Ms. Abedin's emails, records, and information?

Response: The State Department objects to the terms "responsible," "inventorying," "accounting," and "information" as vague and overbroad. The State Department additionally objects to this interrogatory on the grounds that it exceeds the permissible scope of discovery under the Court's Order. The State Department further objects to this interrogatory on the grounds that it does not identify a relevant time period. Without waiving its objections, the State Department provides the following response, which provides information about offices and individuals who had management responsibility for records management of Secretary Clinton's and Huma Abedin's documents between January 21, 2009 (the date Secretary Clinton took office) and February 19, 2016 (the date on which the Department filed its final search declaration in this matter).

The Executive Secretariat ("S/ES") is responsible for records management of documents for Department principals as well as retrieval of archived documents upon request. 1 FAM 022.2-2(2). Within S/ES-S, until January 21, 2013, the Office of Correspondence and Records ("S/ES-CR") had day-to-day responsibility for records management. See 1 FAM 022.2-3 (August 6, 2001). During former Secretary Clinton and Ms. Abedin's tenures, the Director of S/ES-CR was Clarence Finney. Effective January 21, 2013, this office was merged with another Executive Secretariat office to form the Executive Secretariat Staff ("S/ES-S"). Clarence Finney has held the position of Deputy Director of S/ES-S and head of the Correspondence, Records, and Staffing Division from that time to the present. The Directors of S/ES-S since the time of the merger have been Paul Horowitz (January 2013 – March 2014), MaryKay Carlson (March 2014 – November 2014), Mary Katherine Stana (December 2014 – July 2015) and Karin Lang (July 2015 to the present).

INTERROGATORY NO. 3:

Who was responsible for responding to Plaintiff's FOIA request from the date of submission to the present?

Response: The State Department objects to the term "responsible" as vague and overbroad. Without waiving its objections, the State Department provides the following response, which provides information about offices and individuals who had management responsibility for responding to Plaintiff's FOIA request from May 21, 2013 (the date of the Plaintiff's FOIA request) to February 19, 2016 (the date on which the Department filed its final search declaration in this matter).

The State Department incorporates its response to Interrogatory No. 1 by reference.

The Director of the Department's Office of Information Programs and Services ("IPS") is responsible for responding to requests for access to information under the FOIA, including Plaintiff's FOIA request. 22 C.F.R. 171.11. The IPS Directors during the period from the date of submission of Plaintiff's FOIA request to the present were: Sheryl Walter (December 2011 – March 2014); and John Hackett (Acting Director: March 2014 – June 2015; Director: June 2015 – March 2016). Within IPS, the Statutory Compliance and Research Division administers the Department's statutory responsibilities in providing public access to information under the FOIA, including through coordinating with regional and functional bureaus to respond to public requests for records. 1 FAM 214.2-3. At the time Plaintiff's FOIA request was submitted to the Department in May 2013 until the time it entered litigation in September 2013, the Statutory Compliance and Research Division was responsible for responding to Plaintiff's FOIA request. The Statutory Compliance and Research Division Chief from May 2013 through September 2013 was Patrick Scholl. At the time Plaintiff's FOIA request entered litigation in September 2013, the Litigation and Appeals Branch within IPS's Programs and Policies Division was responsible for responding to the request. The Programs and Policies Division Chief during the period of September 2013 to February 19, 2016, was Karen Finnegan Meyers. The Branch Chief responsible for the Litigation and Appeals Branch during the period of September 2013 to February 19, 2016, was Susan Weetman.

INTERROGATORY NO. 4:

Which State Department officials and employees had and/or used an account on the clintonemail.com system to conduct official government business?

Response: State objects to this interrogatory on the grounds that it has never possessed or controlled clintonemail.com, does not now possess or control clintonemail.com, and thus has no

method of identifying which State Department officials and employees had and/or used an account on clintonemail.com to conduct official government business.

Subject to the foregoing objection, State is aware that Secretary Clinton and Huma Abedin had such accounts. *See* Clinton Declaration (Aug. 8, 2015) (ECF No. 22-1).

As to the interrogatories, see Attachment A.

As to the objections:

Dated: May 25, 2016

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General

MARCIA BERMAN
Assistant Director

/s/ Steven A. Myers
CAROLINE LEWIS WOLVERTON (DC 496433)
Senior Trial Counsel
STEVEN A. MYERS (NY 4823043)
Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, N.W.
Washington, D.C. 20530
Tel.: (202) 305-8648
Fax: (202) 616-8460
Email: steven.a.myers@usdoj.gov

Attorneys for Defendant

ATTACHMENT A

VERIFICATION

I, Karin Lang, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury that the interrogatory answers contained in Defendant's Responses and Objections to Plaintiff's Interrogatories are true and correct to the best of my knowledge, and upon information and belief.

Dated: May 25, 2016

A handwritten signature in black ink, appearing to read 'Karin Lang', with a large, stylized loop at the end.

Karin Lang
Director of the Executive Secretariat Staff
U.S. Department of State

CERTIFICATE OF SERVICE

I hereby certify that on May 25, 2016, I served the foregoing Responses and Objections to Plaintiff's Interrogatories by electronic mail on the following:

Michael Bekesha
Paul J. Orfanedes
Ramona Cotca
James Peterson
JUDICIAL WATCH, INC.
425 Third Street, SW
Suite 800
Washington, DC 20024
mbekesha@judicialwatch.org
porfanedes@judicialwatch.org
rcotca@judicialwatch.org
jpeterson@judicialwatch.org

/s/Steven A. Myers
STEVEN A. MYERS



United States Department of State

Washington, D.C. 20520

FEB 12 2014

Case No. F-2013-08812

Segment: HR-0001

Mr. Sean A Dunagan
Judicial Watch
425 Third Street SW, Suite 800
Washington, DC 20024

Dear Mr. Dunagan:

In response to your request dated May 21, 2013 under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552, we have completed searches of the following Department of State (the "Department") records systems: the Central Foreign Policy Records (the principal records system of the Department), the Bureau of Human Resources, the Office of the Executive Secretariat, and the Office of the Legal Adviser.

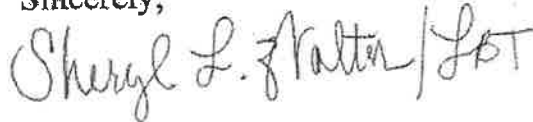
Searches of these Department components have resulted in the retrieval of eight documents responsive to your request. After reviewing these documents, we have determined that all eight may be released in part. All released material is enclosed.

Where we have made excisions, the applicable exemptions are marked on each document. All eight documents released in part contain information withheld under Exemption 6, 5 U.S.C. § 552(b)(6). An enclosure explains FOIA exemptions and other grounds for withholding material.

As these records are subject to pending litigation, there is no administrative appeal available. See 22 C.F.R. § 171.52(a).

This concludes our processing of the case. If you have any questions, please contact Trial Attorney Peter Wechsler at (202) 514-2705 or Peter.Wechsler@usdoj.gov.

Sincerely,

A handwritten signature in cursive script that reads "Sheryl L. Walter / LST".

Sheryl L. Walter, Director
Office of Information Programs and Services

Enclosures:
As stated.

RELEASED IN PART B6

Standard Form 30

Rev 2/91
U.S. Office of Personnel Management
Guide to Processing Personnel Actions, Chapter 4

NOTIFICATION OF PERSONNEL ACTION

1 Name (Last, First, Middle) ABEDIN, HUMA M				2 Social Security Number		3 Date of Birth		4 Effective Date 02-13-2011		
FIRST ACTION					SECOND ACTION					
5 A Code 002		5 B Nature of Action Correction			6 A Code 546		6 B Nature of Action Conv to SES/SFS Noncareer Appi			
5 C Code		5 D Legal Authority			6 C Code NSM		6 D Legal Authority Reg 317.305(b)			
5 E Code		5 F Legal Authority			6 E Code AUM		6 F Legal Authority OPM Form 1652 Dated 02/02/2011			
7 FROM: Position Title and Number DEPUTY CHIEF OF STAFF FOR OPERATIONS PD:D02708 Position: D0270800					15 TO: Position Title and Number DEPUTY CHIEF OF STAFF FOR OPERATIONS PD:D06295 Position: D0629500					
8 Pay Plan CIS		9 Occ. Code 00301		10 Grade/Level 15		11 Step/Rate 10		12 Total Salary \$155,500.00		
13 Pay Basis PA		14 Pay Plan ES		15 Occ. Code 00301		16 Grade/Level 00		17 Step/Rate 00		
18 Total Salary/Award \$163,750.00		19 Pay Basis PA		20 Basic Pay \$163,750.00		21 Locality Adj. \$0.00		22 Total Salary \$163,750.00		
23 Other Pay \$0.00		24 Locality Adj. \$0.00		25 Adj. Basic Pay \$163,750.00		26 Other Pay \$0.00		27 Total Salary \$163,750.00		
14 Name and Location of Position's Organization IMMEDIATE OFFICE OF THE SECRETARY OFFICE OF THE SECRETARY					22 Name and Location of Position's Organization IMMEDIATE OFFICE OF THE SECRETARY OFFICE OF THE SECRETARY					
EMPLOYEE DATA										
23 Veterans Preference					24 Tenure		25 DHS Tenure		26 Veterans Preference for RIF	
1 - None 2 - 5 Points 3 - 10 Points/Disability 4 - 10 Points/Compensable 5 - 10 Points/Other 6 - 10 Points/Compensable/10%					0 - None 1 - Permanent 2 - Conditional 3 - Indefinite		29		YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
27 FEGLI C0 Basic Only					28 Annuity Indicator 9 - Not Applicable		29 Pay Rate Determinant 0		30 Part-Time Hours Per Biweekly Pay Period	
30 Retirement Plan K - FERS and FICA					31 Service Comp. Date (Leave) 03-02-2001		32 Work Schedule F Full Time		33	
POSITION DATA										
34 Position Occupied 3 - 1 - Excepted Service 2 - Excepted Service 3 - SES General 4 - SES Career Reserved					35 PLSA Category E - Example N - Nonexempt		36 Appropriation Code 0113.0-1097 1111 0000		37 Budgetary Unit Status 8888	
38 Duty Station Code 110010001					39 Duty Station (City/County/State or Overseas Location) WASHINGTON, DIST OF COLUMBIA					
40 DOG 13-FEB-2011		41 WCD Due N/A		42 Prim Skill HRCSHCLP		43 HR Processor		44		
45 Remarks - CORRECTS ITEM 5-C; 5-D; 5-E; 5-F TO READ: NSM - Reg 317.305(b) AUM - OPM Form 1652, Dated 02/02/2011										
REVIEW AUTHORITY: Frank Tumminia, Senior Reviewer										
46 Employing Department or Agency DEPARTMENT OF STATE					50 Signature/Authentication and Title of Approving Official Electronically signed by: POWELL NANCY J DIR GEN OF FS / DIR OF PERS					
47 Agency Code ST00		48 Personnel Office ID 2951		49 Approval Date 05-05-2011						

1 - OFF Copy - Long-Term Record - DO NOT DESTROY

Editions Prior to 7/91 Are Not Usable After 6/30/93
NSN 7540-01-333-6238

RELEASED IN PART B6

Standard Form 50

Rev 7/91

U.S. Office of Personnel Management
Guide to Processing Personnel Actions, Chapter 4

NOTIFICATION OF PERSONNEL ACTION

1 Name (Last, First, Middle) ABEDIN, HUMA M		2 Social Security Number		3 Date of Birth		4 Effective Date 06-03-2012	
FIRST ACTION				SECOND ACTION			
5 A Code 571		5 B Nature of Action CONV TO EXC APPT NTE 06-02-2013		5 A Code		5 B Nature of Action	
5 C Code 112L		5 D Legal Authority Reg 304.103, Experts and Consultants		5 C Code		5 D Legal Authority	
5 E Code		5 F Legal Authority		5 E Code		5 F Legal Authority	
7 FROM: Position Title and Number PD:D06295 Position: D0629500 DEPUTY CHIEF OF STAFF FOR OPERATIONS				15 TO: Position Title and Number PD:E10562 Position: E1056200 SENIOR ADVISOR			
8 Pay Plan ES		9 Org Code 00301		10 Grade/Level 00		11 Step/Rate 00	
12A Basic Pay \$163,750.00		12B Locality Adj \$0.00		12C Adj. Basic Pay \$163,750.00		12D Other Pay \$0.00	
13 Pay Plan ES		14 Org Code 00130		15 Grade/Level 15		16 Step/Rate 10	
17 Basic Pay \$496.47		18 Locality Adj \$0.00		19 Adj. Basic Pay \$496.47		20 Other Pay \$0.00	
14 Name and Location of Position's Organization 010101 IMMEDIATE OFFICE OF THE SECRETARY OFFICE OF THE SECRETARY				15 Name and Location of Position's Organization 010101 IMMEDIATE OFFICE OF THE SECRETARY OFFICE OF THE SECRETARY			
EMPLOYEE DATA							
23 Current Preference 1 None 2 5 Point		3 - 10 Point/Unsuitable 4 - 10 Point/Compensable		5 - 10 Point/Other 6 - 10 Point/Compensable/20%		24 Tenure 3 None 2 - Conditional 1 - Permanent 3 - Indefinite	
25 FEGLI CD Basic Only		26 Veterans Preference (if N/A) YES X NO		27 Pay Rate Determination 0		28 Part-Time Hours Per Biweekly Pay Period	
29 Retirement Plan K K - FERS and FICA		30 Service Comp. Date (Leave) 03-02-2001		31 Work Schedule 1 Intermittent		32	
POSITION DATA							
33 Position Occupied 2		34 FL/A Category E		35 Appropriation Code 0113.0-1001 1123 0000		36 Bargaining Unit Status 88K8	
37 Duty Station Code 110010001		38 Duty Station (City-County-State or Overseas Location) WASHINGTON, DIST OF COLUMBIA					
39 DOG 03-JUN-2012		40 WGI Due N/A		41 Prim Still		42 HR Processor SSEXCM	
43 Remarks - SPECIAL GOVERNMENT EMPLOYEE. APPOINTMENT MAY NOT BE EXTENDED IF EMPLOYEE WORKS MORE THAN 130 DAYS IN SERVICE YEAR. APPLICABLE 365 DAY PERIOD BEGINS 06/03/2012. ESTIMATED NUMBER OF DAYS EMPLOYEE WILL WORK DURING APPLICABLE 365 DAY PERIOD 120 days. SUBJECT TO CONCURRENCE OF THE LEGAL ADVISER-CONFIDENTIAL STATEMENT OF EMPLOYMENT AND FINANCIAL INTERESTS SUBMITTED - EMPLOYMENT UNDER THIS APPOINTMENT MUST NOT EXCEED 1040 HOURS A YEAR. - HEALTH BENEFITS COVERAGE CONTINUES. - YOU ARE SUBJECT TO REGULATIONS GOVERNING CONDUCT AND RESPONSIBILITIES OF SPECIAL GOVERNMENT EMPLOYEES. - REASON FOR TEMPORARY APPOINTMENT TO SERVE AT THE NEEDS OF THE SECRETARY OF STATE HILLARY R. CLINTON. - NO ANNUAL OR SICK LEAVE BENEFITS. NO REGULARLY SCHEDULED TOUR OF DUTY. - CREDITABLE MILITARY SERVICE: NONE - PREVIOUS RETIREMENT COVERAGE: PREVIOUSLY COVERED - YOU DO NOT ACQUIRE A COMPETITIVE STATUS UNDER THIS APPOINTMENT. - YOUR APPOINTMENT MAY BE TERMINATED AT ANY TIME. - FROZEN SERVICE: NONE *** REMARKS CONTINUED ON THE NEXT PAGE ***							
44 REVIEW AUTHORITY: Frank Tumminia, Senior Reviewer							
46 Employing Department or Agency DEPARTMENT OF STATE				47 Signature/Authentication and Title of Approving Official Electronically signed by: LINDA THOMAS-GREENFIELD DIR GEN OF FS / DIR OF HK			
48 Agency Code ST00		49 Personnel Office ID 2951		50 Approval Date 06-08-2012		51	

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Standard Form 50

Rev 7/91
U.S. Office of Personnel Management
Guide to Processing Personnel Actions, Chapter 4

NOTIFICATION OF PERSONNEL ACTION

B6

1. Name (Last, First, Middle) ABEDIN, HUMA M				2. Social Security Number		3. Date of Birth		4. Effective Date 02-01-2013			
FIRST ACTION					SECOND ACTION						
5-A Code 312		5-B Nature of Action RESIGNATION-ILIA			6-A Code		6-B Nature of Action				
5-C Code RPM		5-D Legal Authority Reg 715.202, Resignation			6-C Code		6-D Legal Authority				
5-E Code		5-F Legal Authority			6-E Code		6-F Legal Authority				
7. FROM: Position Title and Number SENIOR ADVISOR					15. TO: Position Title and Number						
PD: E10562 Position: E1056200											
8. Pay Plan ED		9. Org. Code 00130		10. Grade/Level 15		11. Step/Rate 10		12. Total Salary \$496.47			
13. Pay Basis PD		16. Pay Plan		17. Org. Code		18. Grade/Level		19. Step/Rate			
20. Basic Pay \$496.47		20B. Locality Adj \$0.00		20C. Adj. Basic Pay \$496.47		20D. Other Pay \$0.00		21. Pay Basis			
14. Name and Location of Position's Organization IMMEDIATE OFFICE OF THE SECRETARY OFFICE OF THE SECRETARY					22. Name and Location of Position's Organization						
010101											
EMPLOYEE DATA											
23. Veterans Preference 1 - None 2 - 5 Points 3 - 10 Points/Disability 4 - 10 Points/Compensable 5 - 10 Points/Other 6 - 10 Points/Compensable/10%					24. Status 0 - None 1 - Permanent 2 - Conditional 3 - Indefinite		25. 12/55 Test 12		26. Veterans Preference for RIF YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		
27. FEGLI CO Basic Only					28. Annual Indicator 9 9 - Not Applicable		29. Pay Rate Determinant 0		30. Part-Time Hours Per Biweekly Pay Period		
31. Service Comp. Due (Leave) 03-02-2001					32. Work Schedule 1 Intermittent						
33. Retirement Plan K K - FERS and FICA											
POSITION DATA											
34. Function Grouped 2 1 - Competitive Service 2 - Excepted Service 3 - SES General 4 - SES Career Reserved					35. PLSA Category E E - Except N - Noncompetitive		36. Appropriation Code 0113.0-1001 1123 0000		37. Bargaining Unit Status 8888		
38. Duty Station Code 110010001					39. Duty Station (City/County/State or Overseas Location) WASHINGTON, DIST OF COLUMBIA						
40. DOG 03-JUN-2012		41. WGI Due N/A		42. Prom Skill		43. HR Processor SSEXJCM		44			
45. Remarks - OFF MAINTAINED BY DEPT OF STATE, HR/EX/RIM, ROOM 804, SA-1, WASH. D.C. 20037-0000. - SF 2819 WAS PROVIDED. LIFE INSURANCE COVERAGE IS EXTENDED FOR 31 DAYS DURING WHICH YOU ARE ELIGIBLE TO CONVERT TO AN INDIVIDUAL POLICY (NONGROUP CONTRACT). - HEALTH BENEFITS COVERAGE IS EXTENDED FOR 31 DAYS DURING WHICH YOU ARE ELIGIBLE TO CONVERT TO AN INDIVIDUAL POLICY (NONGROUP CONTRACT). YOU ARE ALSO ELIGIBLE FOR TEMPORARY CONTINUATION OF YOUR FEHB COVERAGE FOR UP TO 18 MONTHS. - INTERMITTENT EMPLOYMENT TOTALED 1389 HOURS IN WORK STATUS FROM 06/03/2012 TO 02/01/2013. - SF-8 PROVIDED TO EMPLOYEE. - NOT ENTITLED TO SEVERANCE PAY. - LUMP-SUM PAYMENT TO BE MADE FOR ANY UNUSED ANNUAL LEAVE. - REASON FOR RESIGNATION: Resignation due to change in agency leadership. Resignation in lieu of involuntary separation. There is no misconduct in this case. - FORWARDING ADDRESS:											
REVIEW AUTHORITY: Frank Tumminia, Senior Reviewer											
38. Employing Department or Agency DEPARTMENT OF STATE					39. Signature/Authentication and Title of Approving Official Electronically signed by: LINDA THOMAS-GREENFIELD DIR GEN OF FS/DIR OF HR						
47. Agency Code ST00		48. Personnel Office ID 2951		49. Approval Date 02-15-2013							

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NOTIFICATION OF PERSONNEL ACTION

Rev. 7/91
U.S. Office of Personnel Management
Guide to Processing Personnel Actions, Chapter 4

1. Name (Last, First, Middle) ABEDIN, KUMA M				2. Social Security Number		3. Date of Birth		4. Effective Date 06-03-2012	
FIRST ACTION					SECOND ACTION				
5-A. Code 571		5-B. Nature of Action CONV TO EXC APPT NTE 06-02-2013			6-A. Code		6-B. Nature of Action		
5-C. Code 112L		5-D. Legal Authority Reg 304.103. Experts and Consultants			6-C. Code		6-D. Legal Authority		
5-E. Code		5-F. Legal Authority			6-E. Code		6-F. Legal Authority		
7. FROM: Position Title and Number DEPUTY CHIEF OF STAFF FOR OPERATIONS					15. TO: Position Title and Number SENIOR ADVISOR				
PD: D06295 Position: D0629500					PD: E10562 Position: E1056200				
8. Pay Plan ES		9. Occ. Code 00301		10. Grade/Level 00		11. Step/Rate 00		12. Total Salary \$163,750.00	
13. Pay Grade PA		14. Pay Plan ED		15. Occ. Code 00130		16. Grade/Level 15		17. Step/Rate 10	
18. Total Salary/Award \$496.47		19. Pay Basis PD		20. Basic Pay \$496.47		21. Locality Adj. \$0.00		22. Adj. Basic Pay \$496.47	
23. Other Pay \$0.00		24. Basic Pay \$163,750.00		25. Locality Adj. \$0.00		26. Adj. Basic Pay \$163,750.00		27. Other Pay \$0.00	
14. Name and Location of Position's Organization 010101 IMMEDIATE OFFICE OF THE SECRETARY OFFICE OF THE SECRETARY					15. Name and Location of Position's Organization 010101 IMMEDIATE OFFICE OF THE SECRETARY OFFICE OF THE SECRETARY				
EMPLOYEE DATA									
28. Veterans Preference 1 - None 2 - 5 Points 3 - 10 Points/Disability 4 - 10 Points/Compensable 5 - 10 Points/Other 6 - 10 Points/Compensable/50%		29. Tenure 3 - None 4 - Permanent 5 - Conditional 6 - Indefinite		30. DoS Tenure 12		31. Veterans Preference for RIF YES X NO			
32. PAY GRADE CU Basic Only		33. Assistant Indicator 9 - Not Applicable		34. Pay Rate Determinant 0		35. Part-Time Hours For Biweekly Pay Period			
36. Retirement Plan K - FERS and FICA		37. Service Comp. Date (Leave)		38. Work Schedule Intermittent		39. Part-Time Hours For Biweekly Pay Period			
POSITION DATA									
40. Position Occupied 2 - Competitive Service 3 - SES General 4 - SES Career Reserved		41. FLSA Category E - Exempt N - Nonexempt		42. Appropriation Code 0113.0-1001 1123 0000		43. Bargaining Unit Status 8888			
44. Duty Station Code 110010001		45. Duty Station (City/County/State or Overseas Location) WASHINGTON, DIST OF COLUMBIA							
46. DOG 03-JUN-2012		47. WGL Due N/A		48. Print Skill SSEXCM		49. HR Processor			
50. Remarks *** REMARKS CONTINUED ***									
REVIEW AUTHORITY: Frank Tumminia, Senior Reviewer									
51. Employing Department or Agency DEPARTMENT OF STATE					52. Signature/Authentication and Title of Approving Official Electronically signed by: LINDA THOMAS-GREENFIELD DIR GEN OF FS/DIR OF HR				
53. Agency Code ST00		54. Personnel Office ID 2931		55. Approval Date 06-08-2012		56. Signature/Authentication and Title of Approving Official			

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Standard Form 50

NOTIFICATION OF PERSONNEL ACTION

Rev 7/91
U.S. Office of Personnel Management
Guide to Processing Personnel Actions, Chapter 4

1 Name (Last, First, Middle) ABEDIN, HUMA M		2 Social Security Number		3 Date of Birth		4 Effective Date 01-22-2011	
FIRST ACTION				SECOND ACTION			
5-A Code 921		5-B Name of Action Agency Reassignment		6-A Code		6-B Name of Action	
5-C Code		5-D Legal Authority		6-C Code		6-D Legal Authority	
5-E Code		5-F Legal Authority		6-E Code		6-F Legal Authority	
7. FROM: Position Title and Number				15. TO: Position Title and Number DEPUTY CHIEF OF STAFF FOR OPERATIONS PD:D02708 Position: D0270800			
8 Pay Plan		9 Dec. Code		10 Grade/Level		11 Step/Rate	
12A Basic Pay		12B Locality Adj.		12C Adj. Basic Pay		12D Other Pay	
13A Basic Pay		13B Locality Adj.		13C Adj. Basic Pay		13D Other Pay	
14. Name and Location of Position's Organization				22. Name and Location of Position's Organization IMMEDIATE OFFICE OF THE SECRETARY OFFICE OF THE SECRETARY 010101			
EMPLOYEE DATA							
21 Vac. Pref. Ind.		24 Tenure		25 Duty Tenure		26 Veteran Preference by RIF	
1 - None 2 - 5 Points		3 - 10 Points/Disability 4 - 10 Points/Compensable		5 - 10 Points/Other 6 - 10 Points/Compensable/10%		YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
27 FEGLI		28 Annuity Indicator		29 Pay Rate Determinant		30 Part-Time Hours Per Week	
C0 Basic Only		9 - Not Applicable		0		31 Service Comp. Date (Leave)	
30 Retirement Plan		31 Service Comp. Date (Leave)		32 Work Schedule		33 Part-Time Hours Per Week	
K - FERS and FICA		03-02-2001		F - Full Time		Pay Period	
POSITION DATA							
34 Position Occupied		35 FLSA Category		36 Appropriation Code		37 Bargaining Unit Status	
2 - Competitive Service		E - Except		0113.0-1097 1111 0000		8888	
3 - SES General		N - Nonexcept		38 Duty Station (City-County-State or Overseas Location)		39	
4 - SES Career Reserved		WASHINGTON, DIST OF COLUMBIA		40		41	
39 Main Station Code		40		41		42	
110010001		WASHINGTON, DIST OF COLUMBIA		40		41	
43 DOG		44, WGI Line		45 From Staff		46, HR Processor	
22-JAN-2009		N/A		42 From Staff		BATCHSOD	
45 Remarks - ACRS JOB CODE AND POSITION UPDATE.							
REVIEW AUTHORITY: Frank Tumminia, Senior Reviewer							
46 Employing Department or Agency DEPARTMENT OF STATE				50 Signature/Authentication and Title of Approving Official Electronically signed by: POWELL, NANCY J DIRECTOR GENERAL			
47 Agency Code		48 Personnel Office ID		49 Approval Date		50	
ST00		2951		01-22-2011			

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Standard Form 50-

Rev. 7/91

U.S. Office of Personnel Management

Guide to Processing Personnel Actions, Chapter 6

NOTIFICATION OF PERSONNEL ACTION

B6

1. Name (Last, First, Middle) ABEDIN, HUMA M				2. Social Security Number		3. Date of Birth		4. Effective Date 01-03-2010	
FIRST ACTION					SECOND ACTION				
5-A. Title 894		5-B. Nature of Action GENERAL ADJUSTMENT			6-A. Code		6-B. Nature of Action		
5-C. Code ZLM		5-D. Legal Authority E.O. 13525 DTD 12/23/2009			6-C. Code		6-D. Legal Authority		
5-E. Code QWM		5-F. Legal Authority Reg 531.207			6-E. Code		6-F. Legal Authority		
7. FROM: Position Title and Number DEPUTY CHIEF OF STAFF FOR OPERATIONS PD:115071 Position: D0270800					15. TO: Position Title and Number DEPUTY CHIEF OF STAFF FOR OPERATIONS PD:115071 Position: D0270800				
8. Pay Plan GS		9. Oct. Code 00301		10. Grade/Level 15		11. Step/Rate 10		12. Total Salary \$153,200.00	
13. Pay Basis PA		16. Pay Plan GS		17. Oct. Code 00301		18. Grade/Level 15		19. Step/Rate 10	
20. Total Salary/Award \$155,500.00		21. Pay Basis PA		22. Basic Pay \$129,517.00		23. Locality Adj. \$25,983.00		24. Total Salary/Award \$155,500.00	
25. Other Pay \$0.00		26. Locality Adj. \$25,983.00		27. Total Salary/Award \$155,500.00		28. Other Pay \$0.00		29. Total Salary/Award \$155,500.00	
14. Name and Location of Position's Organization IMMEDIATE OFFICE OF THE SECRETARY OFFICE OF THE SECRETARY 010101					33. Name and Location of Position's Organization IMMEDIATE OFFICE OF THE SECRETARY OFFICE OF THE SECRETARY 010101				
EMPLOYEE DATA									
21. Veterans Preference 1		22. Tenure 3		23. Duty Station 45		24. Veterans Preference for RIF YES X NO		25. Pay Rate Determination 0	
26. Basic Only C0		27. Service Comp. Date (Leave) 03-02-2001		28. Work Schedule F Full Time		29. Part-Time Hours Per Biweekly Pay Period		30. Pay Rate Determination 0	
POSITION DATA									
31. Position Occupied 2		32. FLSA Category E		33. Appropriation Code 0113.0-1097 111 0000		34. Bargaining Unit Status 8883		35. Duty Station Code 110010001	
36. Duty Station Code 110010001		37. Duty Station WASHINGTON, DIST OF COLUMBIA		38. HR Processor COLA		39. HR Processor COLA		40. HR Processor COLA	
41. Remarks Salary includes general increase of 3.5 percent and a locality payment (or other geographic adjustment) applicable in this area.									
REVIEW AUTHORITY: Frank Tumminia, Senior Reviewer									
46. Employing Department or Agency DEPARTMENT OF STATE					50. Signature/Authentication and Title of Approving Official Electronically signed by: POWELL, NANCY J DIR GEN OF FS/DIR OF IIR				
47. Agency Code ST00		48. Personnel Office ID 2951		49. Approval Date 01-02-2010					

B6

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Standard Form 50

Rev 7/91
U.S. Office of Personnel Management
Guide to Processing Personnel Actions, Chapter 4

NOTIFICATION OF PERSONNEL ACTION

1 Name (Last, First, Middle) ABEDIN, HUMA M		2 Social Security Number		3 Date of Birth		4 Effective Date 02-13-2011	
FIRST ACTION				SECOND ACTION			
5-A Code 002		5-B Nature of Action Correction		6-A Code 546		6-B Nature of Action Conv to SES/SFS Noncareer Appt	
5-C Code		5-D Legal Authority		6-C Code V4L		6-D Legal Authority 5 U.S.C. 3394(a) Noncareer	
5-E Code		5-F Legal Authority		6-E Code AWM		6-F Legal Authority OPM Form 1652 02/02/2011	
7 FROM: Position Title and Number DEPUTY CHIEF OF STAFF FOR OPERATIONS PD:D02708 Position: D0270800				15 TO: Position Title and Number DEPUTY CHIEF OF STAFF FOR OPERATIONS PD:D06295 Position: D0629500			
8 Pay Plan GS		9 Occ. Code 00301		10 Grade/Level 15		11 Step/Rate 10	
12 Total Salary \$155,500.00		13 Pay Basis PA		16 Pay Plan ES		17 Occ. Code 00301	
18 Grade/Level 00		19 Step/Rate 00		20 Total Salary/Award \$163,750.00		21 Pay Basis PA	
12A Basic Pay \$129,517.00		12B Locality Adj \$25,983.00		12C Adj. Basic Pay \$155,500.00		12D Other Pay \$0.00	
20A Basic Pay \$163,750.00		20B Locality Adj \$0.00		20C Adj. Basic Pay \$163,750.00		20D Other Pay \$0.00	
14 Name and Location of Position's Organization IMMEDIATE OFFICE OF THE SECRETARY OFFICE OF THE SECRETARY 010101				22 Name and Location of Position's Organization IMMEDIATE OFFICE OF THE SECRETARY OFFICE OF THE SECRETARY 010101			
EMPLOYEE DATA							
23 Veterans Preference 1 - None 2 - 5 Point		3 - 10 Point/Disability 4 - 10 Point/Comparable		5 - 10 Point/Other 6 - 10 Point/Comparable/10%		24 Issue 0 - None 1 - Permanent 2 - Conditional 3 - Indefinite	
25 Duty Tenure 29		26 Veterans Preference for RII YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		27 FEGEL CD Basic Only		28 Amendment Indicator 9 - Not Applicable	
29 Pay Rate Determinant 0		30 Retirement Plan K - FERS and FICA		31 Service Comp. Date (Leave) 03-02-2001		32 Work Schedule F - Full Time	
33 Part-Time Hours Per Biweekly Pay Period							
POSITION DATA							
34 Position Occupied 3 - Competitive Service 4 - SES General 5 - SES Career Reserved		35 FLSA Category E - Exempt N - Nonexempt		36 Appropriation Code 0113.0-1097 1111 0000		37 Bargaining Unit Status 8888	
38 Duty Station Code 110010001		39 Duty Station (City/County/State or Overseas Location) WASHINGTON, DIST OF COLUMBIA					
40 DOG 13-FEB-2011		41 WGR Due N/A		42 Prior Skill		43 HR Precursor SESALR	
44							
45 Remarks - CORRECTS VETERANS INFOR ON THE SF-52 FROM NOT INDICATED FROM 1/22/2009 TO 3/4/2011.							
REVIEW AUTHORITY: Frank Tumminia, Senior Reviewer							
46 Employing Department or Agency DEPARTMENT OF STATE				48 Signature/Authentication and Title of Approving Official Electronically signed by: POWELL, NANCY J DIR GEN OF PS/DIR OF PERS			
47 Agency Code ST00		49 Personnel Office ID 2951		50 Approval Date 03-04-2011			

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NOTIFICATION OF PERSONNEL ACTION

Rev 7/91
U.S. Office of Personnel Management
Guide to Processing Personnel Actions, Chapter 4

1. Name (Last, First, Middle) ABEDIN, HUMA M				2. Social Security Number		3. Date of Birth		4. Effective Date 02-13-2011			
FIRST ACTION					SECOND ACTION						
5-A Code 546		5-B Nature of Action Conv to SES/SES Noncareer Appt			6-A Code		6-B Nature of Action				
5-C Code V4L		5-D Legal Authority 5 U.S.C. 3194(a) Noncareer			6-C Code		6-D Legal Authority				
5-E Code AWM		5-F Legal Authority OPM Form 1652 02/02/2011			6-E Code		6-F Legal Authority				
7 FROM: Position Title and Number DEPUTY CHIEF OF STAFF FOR OPERATIONS PD:D02708 Position: D0270800					13 TO: Position Title and Number DEPUTY CHIEF OF STAFF FOR OPERATIONS PD:D06295 Position: D0629500						
8 Pay Plan GS	9 Loc Code 00301	10 Grade/Level 15	11 Step/Rate 10	12 Total Salary \$155,500.00	13 Pay Basis PA	16 Pay Plan ES	17 Loc Code 00301	18 Grade/Level 00	19 Step/Rate 00	20 Total Salary/Award \$163,750.00	21 Pay Basis PA
17A. Basic Pay \$129,517.00		17B. Locality Adj. \$25,983.00		17C. Adj. Basic Pay \$155,500.00	17D. Other Pay \$0.00	18A. Basic Pay \$163,750.00		18B. Locality Adj. \$0.00	18C. Adj. Basic Pay \$163,750.00	18D. Other Pay \$0.00	
14 Name and Location of Position's Organization IMMEDIATE OFFICE OF THE SECRETARY OFFICE OF THE SECRETARY 010101					22 Name and Location of Position's Organization IMMEDIATE OFFICE OF THE SECRETARY OFFICE OF THE SECRETARY 010101						
EMPLOYEE DATA											
23 Veterans Preference 1 - None 2 - 5 Points 3 - 10 Points/Disability 4 - 10 Points/Compensable 5 - 10 Points/Other 6 - 10 Points/Compensable/20%				24 Tenure 0 - None 1 - Permanent 2 - Conditional 3 - Indefinite		25 Tenure 29		26 Veterans Preference for RIF YES X NO			
27 FEGLI C0 Basic Only				28 Annuity Indicator 9 - Not Applicable		29 Pay Rate Determinant 0		30 Part-Time (Hours Per Biweekly Pay Period)			
31 Retirement Plan K K - FERS and FICA				32 Service Comp Date (Leave) 03-02-2001		33 Work Schedule F Full Time					
POSITION DATA											
34 Position Occupied 3 1 - Competitive Service 2 - Excepted Service 3 - SES General 4 - SES Career Reserved				35 HSA Category E - Example N - Nonescript		36 Appropriation Code 0113-0-1097-1111 0000				37 Bargaining Unit Status 8888	
38 Duty Station Code 110010001				39 Duty Station (City/County/State or Overseas Location) WASHINGTON, DIST OF COLUMBIA							
40 DOG 13-FEB-2011		41 WCB Date N/A		42 Print Skill HRCSHCLP		43 HR Processor					
45 Remarks <ul style="list-style-type: none"> VETERAN PREFERENCE IS NOT APPLICABLE TO THE SENIOR EXECUTIVE SERVICE. FROZEN SERVICE: NONE. CREDITABLE MILITARY SERVICE: NONE. PREVIOUS RETIREMENT COVERAGE: PREVIOUSLY COVERED. EMPLOYEE IS AUTOMATICALLY COVERED UNDER FERS. TENURE AS USED FOR 5 U.S.C. 3502 IS NOT APPLICABLE TO THE SENIOR EXECUTIVE SERVICE. 											
REVIEW AUTHORITY: Frank Tumminia, Senior Reviewer											
46 Employing Department or Agency DEPARTMENT OF STATE						50 Signature/Authentication and Title of Approving Official Electronically signed by: POWELL, NANCY J DIR GEN OF FS/DIR OF PERS					
47 Agency Code ST00		48 Personnel Office ID 2951		49 Approval Date 02-25-2011							

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The Freedom of Information Act (5 USC 552)

FOIA Exemptions

- (b)(1) Information specifically authorized by an executive order to be kept secret in the interest of national defense or foreign policy. Executive Order 13526 includes the following classification categories:
- 1.4(a) military plans, systems, or operations;
 - 1.4(b) foreign government information;
 - 1.4(c) intelligence activities, sources or methods, or cryptology;
 - 1.4(d) foreign relations or foreign activities of the US, including confidential sources;
 - 1.4(e) scientific, technological, or economic matters relating to national security, including defense against transnational terrorism;
 - 1.4(f) U.S. Government programs for safeguarding nuclear materials or facilities;
 - 1.4(g) vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to US national security, including defense against transnational terrorism;
 - 1.4(h) weapons of mass destruction;
- (b)(2) Related solely to the internal personnel rules and practices of an agency
- (b)(3) Specifically exempted from disclosure by statute (other than 5 USC 552), for example:
- ARMEX Arms Export Control Act, 22 USC 2778(e)
 - EXPORT Export Administration Act of 1979, 50 App. USC 2411(c)(1)
 - FSA Foreign Service Act of 1980, 22 USC 4003 & 4004
 - INA Immigration and Nationality Act, 8 USC 1202(f)
 - IRAN Iran Claims Settlement Act, Sec. 505, 50 USC 1701, note
- (b)(4) Trade secrets and confidential commercial or financial information
- (b)(5) Interagency or intra-agency communications forming part of the deliberative process, attorney-client privilege, or attorney work product
- (b)(6) Personal privacy information
- (b)(7) Law enforcement information whose disclosure would:
- (A) interfere with enforcement proceedings
 - (B) deprive a person of a fair trial
 - (C) constitute an unwarranted invasion of personal privacy
 - (D) disclose confidential sources
 - (E) disclose investigation techniques
 - (F) endanger life or physical safety of an individual

Other Grounds for Withholding

- NR Material not responsive to a FOIA request excised with the agreement of the requester



United States Department of State

Washington, D.C. 20520

SEP 18 2015

Case No. F-2013-08812

Segments: L-0002, S/ES-0001

Sean A. Dunagan
Judicial Watch
425 Third Street, SW Suite 800
Washington, DC 20024

Dear Mr. Dunagan:

I refer to our letter dated February 12, 2014 regarding the release of certain Department of State material under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552, we initiated a supplemental search of the following Department of State record systems: the Office of the Executive Secretariat, the Office of the Legal Adviser, the Office of the Under Secretary for Management, the Bureau of Human Resources, and the Central Foreign Policy Records.

The search of the records of the of the Under Secretary for Management, the Bureau of Human Resources, and the Central Foreign Policy Records did not retrieve any new responsive or non-duplicative records.

The search of the Office of the Legal Adviser is complete. We have thus far reviewed 18 responsive records and have determined that 6 may be released in full, 10 may be released with excisions, and 2 must be withheld in full. All released material is enclosed.

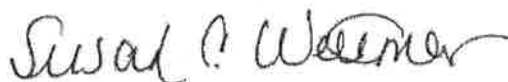
The search of the Office of the Executive Secretariat is ongoing. We have thus far reviewed 12 responsive records and have determined that 2 may be released in full and 10 may be released with excisions. All released material is enclosed.

An enclosure explains FOIA exemptions and other grounds for withholding material. Where we have made excisions, the applicable exemptions are marked on each document. The two documents withheld in full, are being withheld under FOIA Exemptions 3, 5 U.S.C. §§ 107(a) Ethics in Government Act of

1978 (b)(3). All non-exempt material that is reasonably segregable from the exempt material has been released.

We will keep you informed as your case progresses. If you have any questions, you may contact Peter Wechsler, Trial Attorney, at (202) 514-2705 or Peter.Wechsler@usdoj.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Susan P. Warner".

John F. Hackett, Director
Office of Information Programs and Services

Enclosures:
As stated.

The Freedom of Information Act (5 USC 552)

FOIA Exemptions

- (b)(1) Withholding specifically authorized under an Executive Order in the interest of national defense or foreign policy, and properly classified. E.O. 12958, as amended, includes the following classification categories:
- 1.4(a) Military plans, systems, or operations
 - 1.4(b) Foreign government information
 - 1.4(c) Intelligence activities, sources or methods, or cryptology
 - 1.4(d) Foreign relations or foreign activities of the US, including confidential sources
 - 1.4(e) Scientific, technological, or economic matters relating to national security, including defense against transnational terrorism
 - 1.4(f) U.S. Government programs for safeguarding nuclear materials or facilities
 - 1.4(g) Vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to US national security, including defense against transnational terrorism
 - 1.4(h) Information on weapons of mass destruction
- (b)(2) Related solely to the internal personnel rules and practices of an agency
- (b)(3) Specifically exempted from disclosure by statute (other than 5 USC 552), for example:
- ARMEX Arms Export Control Act, 22 USC 2778(e)
 - CIA Central Intelligence Agency Act of 1949, 50 USC 403(g)
 - EXPORT Export Administration Act of 1979, 50 App. USC 2411(c)(1)
 - FSA Foreign Service Act of 1980, 22 USC 4003 & 4004
 - INA Immigration and Nationality Act, 8 USC 1202(f)
 - IRAN Iran Claims Settlement Act, Sec 505, 50 USC 1701, note
- (b)(4) Privileged/confidential trade secrets, commercial or financial information from a person
- (b)(5) Interagency or intra-agency communications forming part of the deliberative process, attorney-client privilege, or attorney work product
- (b)(6) Information that would constitute a clearly unwarranted invasion of personal privacy
- (b)(7) Information compiled for law enforcement purposes that would:
- (A) interfere with enforcement proceedings
 - (B) deprive a person of a fair trial
 - (C) constitute an unwarranted invasion of personal privacy
 - (D) disclose confidential sources
 - (E) disclose investigation techniques
 - (F) endanger life or physical safety of an individual
- (b)(8) Prepared by or for a government agency regulating or supervising financial institutions
- (b)(9) Geological and geophysical information and data, including maps, concerning wells

Other Grounds for Withholding

- NR Material not responsive to a FOIA request, excised with the agreement of the requester

Motley, Cynthia J

From: Motley, Cynthia J
Sent: Friday, March 23, 2012 2:56 AM
To: Samuelson, Heather F
Cc: Mehlenbacher, Kelly J; Carter, Carol P; Jones, Barbara J
Subject: RE: Huma Abedin

RELEASE IN FULL

REVIEW
AUTHORITY:
Barbara Nielsen,
Senior Reviewer

Heather – please provide the status of the getting the position description signed for Huma. Many thanks.

From: Samuelson, Heather F
Sent: Monday, March 19, 2012 6:03 PM
To: Motley, Cynthia J
Cc: Kennedy, Patrick F; Carter, Pat; Mehlenbacher, Kelly J
Subject: Huma Abedin

Cynthia:

We are aiming to convert Huma from a NC-SES to a SGE beginning April 1st.

Can you please reach out to her with necessary paperwork to complete this transfer ASAP?

Many thanks.
Heather

From: Taylor, Sarah E <TaylorSE2@state.gov>
Sent: Friday, June 22, 2012 10:03 AM
To: Abedin, Huma <AbedinH@state.gov>
Cc: Samuelson, Heather F <SamuelsonHF@state.gov>
Subject: RE: Spouse's Employment

RELEASE IN FULL

Huma,

REVIEW AUTHORITY: Barbara Nielsen, Senior Reviewer

I just spoke to Heather and apparently there is some miscommunication. I was waiting for you to provide additional information on your spouse's assets. What I need is the name of the asset, the market value, and the amount of any reportable income. The document your spouse provided does not provide the type or amount of income accrued. Income that is reportable is cap gains, dividends, or interest.

Sarah E. Taylor
Chief, Financial Disclosure Division
L/EFD
SA-1, Rm H-228
2401 E Street NW
Washington, DC 20522-0102
tel: 202 663-3122
Fax: 202 663-3339
email: Taylorse2@state.gov

From: Abedin, Huma
Sent: Wednesday, June 06, 2012 11:20 AM
To: Taylor, Sarah E
Subject: Re: Spouse's Employment

I am happy to ask him.
We are just both confused about what we need to be doing.

From: Taylor, Sarah E
Sent: Wednesday, June 06, 2012 10:23 AM
To: Abedin, Huma
Subject: RE: Spouse's Employment

NO, I am adding the information to the report. Would you ask him to allow me access to his financial statements that need to be added to your termination report? The documents I have do not have all of the information needed. I need the end of year statement and the first quarter statement that will show the values and types of transactions and income. Thank you. We cleared you for the other position already, this information is necessary to close out your ES position.

Sarah E. Taylor
Chief, Financial Disclosure Division
L/EFD
SA-1, Rm H-228
2401 E Street NW
Washington, DC 20522-0102
tel: 202 663-3122
Fax: 202 663-3339
email: Taylorse2@state.gov

This email is UNCLASSIFIED.

From: Abedin, Huma
Sent: Wednesday, June 06, 2012 10:06 AM
To: Taylor, Sarah E
Subject: Re: Spouse's Employment

He runs his own consulting firm. I don't really know his clients or the work. I will ask him.
Is there a form we are supposed to be filling out?

From: Taylor, Sarah E
Sent: Tuesday, June 05, 2012 03:49 PM
To: Abedin, Huma
Subject: Spouse's Employment

Hello Huma,

Does the organization your spouse works for do business with the Fed Gov? What about doing business with State? I tried to research the organization, but was not successful. Can you give me some details on with this organization does?

Sarah E. Taylor
Chief, Financial Disclosure Division
L/EFD
SA-1, Rm H-228
2401 E Street NW
Washington, DC 20522-0102
tel: 202 663-3122
Fax: 202 663-3339
email: Taylorse2@state.gov

This email is UNCLASSIFIED.

From: Taylor, Sarah E <TaylorSE2@state.gov>
Sent: Wednesday, June 6, 2012 11:44 AM
To: Abedin, Huma <AbedinH@state.gov>
Subject: RE: Spouse's Employment

RELEASE IN FULL

The document I have doesn't provide the amount of income for the holdings with a value of \$1,000 or more.

Sarah E. Taylor
Chief, Financial Disclosure Division
L/EFD
SA-1, Rm H-228
2401 E Street NW
Washington, DC 20522-0102
tel: 202 663-3122
fax: 202 663-3339
email: Taylorse2@state.gov

REVIEW AUTHORITY: Barbara Nielsen, Senior
Reviewer

This email is UNCLASSIFIED.

From: Abedin, Huma
Sent: Wednesday, June 06, 2012 11:37 AM
To: Taylor, Sarah E
Subject: Re: Spouse's Employment

He said he sent the end of the year transactions already and the holdings above 1,000. Should we just talk about this?

From: Taylor, Sarah E
Sent: Wednesday, June 06, 2012 11:22 AM
To: Abedin, Huma
Subject: RE: Spouse's Employment

I will send you a copy of the report for your records. Marcella was asking for the same information as I was.

Sarah E. Taylor
Chief, Financial Disclosure Division
L/EFD
SA-1, Rm H-228
2401 E Street NW
Washington, DC 20522-0102
tel: 202 663-3122
fax: 202 663-3339
email: Taylorse2@state.gov

This email is UNCLASSIFIED.

From: Abedin, Huma

Sent: Wednesday, June 06, 2012 11:20 AM
To: Taylor, Sarah E
Subject: Re: Spouse's Employment

I am happy to ask him.
We are just both confused about what we need to be doing.

From: Taylor, Sarah E
Sent: Wednesday, June 06, 2012 10:23 AM
To: Abedin, Huma
Subject: RE: Spouse's Employment

NO, I am adding the information to the report. Would you ask him to allow me access to his financial statements that need to be added to your termination report? The documents I have do not have all of the information needed. I need the end of year statement and the first quarter statement that will show the values and types of transactions and income. Thank you. We cleared you for the other position already, this information is necessary to close out your ES position.

Sarah E. Taylor
Chief, Financial Disclosure Division
L/EFD
SA-1, Rm H-228
2401 E Street NW
Washington, DC 20522-0102
tel: 202 663-3122
Fax: 202 663-3339
email: Taylorse2@state.gov

This email is UNCLASSIFIED.

From: Abedin, Huma
Sent: Wednesday, June 06, 2012 10:06 AM
To: Taylor, Sarah E
Subject: Re: Spouse's Employment

He runs his own consulting firm. I don't really know his clients or the work. I will ask him.
Is there a form we are supposed to be filling out?

From: Taylor, Sarah E
Sent: Tuesday, June 05, 2012 03:49 PM
To: Abedin, Huma
Subject: Spouse's Employment

Hello Huma,

Does the organization your spouse works for do business with the Fed Gov? What about doing business with State? I tried to research the organization, but was not successful. Can you give me some details on with this organization does?

Sarah E. Taylor
Chief, Financial Disclosure Division
L/EFD

SA-1, Rm H-228
2401 E Street NW
Washington, DC 20522-0102
tel: 202 663-3122
Fax: 202 663-3339
email: Taylorse2@state.gov

This email is UNCLASSIFIED.

From: Abedin, Huma </O=SBUSTATE/OU=SES/CN=RECIPIENTS/CN=ABEDINH>
Sent: Monday, March 26, 2012 2:30 PM
To: Motley, Cynthia J <MotleyC@state.gov>
Cc: Samuelson, Heather F <SamuelsonHF@state.gov>; Carter, Carol P <CarterCP@state.gov>
Subject: Re: Conversion to an Expert Appointment

RELEASE IN FULL

Great. Will do

REVIEW AUTHORITY: Barbara Nielsen, Senior Reviewer

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

From: Motley, Cynthia J
Sent: Monday, March 26, 2012 12:00 PM
To: Abedin, Huma
Cc: Samuelson, Heather F; Carter, Carol P
Subject: Conversion to an Expert Appointment

Huma

I am back in the office today please give me a call on 202-647-9661.

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

From: Motley, Cynthia J
Sent: Thursday, March 22, 2012 11:40 PM
To: Abedin, Huma
Cc: Samuelson, Heather F; Carter, Carol P
Subject: RE: Conversion to an Expert Appointment

Huma

I will be on leave Friday March 23rd returning on Monday. If you need immediate assistant contact Carol P. Carter on 202-647-6090.

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

From: Abedin, Huma
Sent: Thursday, March 22, 2012 7:01 PM
To: Motley, Cynthia J
Cc: Samuelson, Heather F; Carter, Carol P
Subject: Re: Conversion to an Expert Appointment

Can I call you about this? Have a bunch of questions. Thanks

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

From: Motley, Cynthia J
To: Huma Abedin
Cc: Heather Samuelson
Cc: Carter, Carol P
Subject: Conversion to an Expert Appointment
Sent: Mar 21, 2012 5:32 AM

Huma

I have been advised to begin the process to convert you from your Non-Career SES position as Senior Adviser (Expert- SGE) in the

Office of the Secretary which is to be effective April 1, 2012. In order to initiate the conversion appointment I will need the following from you as soon as possible:

1. An updated resume which includes your current Deputy Chief of Staff for Operations position.
2. The attached SF-278 Financial Disclosure Report must be completed for your termination from the Non-Career SES appointment.
3. A copy of the SF-278 can be used with the attached front cover sheet of the OGE-450 Financial Disclosure that must be completed and signed to obtain an Ethics clearance for the conversion appointment. 4. A new signed copy of the Ethics signature page.

Please let me know if you have any questions.

Cynthia J. Motley
Administrative Officer
S/ES-EX Room 7515 HST BLDG
Office Phone: 202-647-9661
Fax: 202-647-6040

In accordance with the policies and procedures outlined in Executive Order 12958, this e-mail is UNCLASSIFIED unless otherwise noted.



United States Department of State

Washington, D.C. 20520

www.state.gov

JUN - 1 2012

RELEASE IN FULL

UNCLASSIFIED
MEMORANDUM

REVIEW AUTHORITY: Barbara
Nielsen, Senior Reviewer

TO: S/ES-EX/HRD - Ms. Cynthia Motley

FROM: L/EFD - Marcella Green *mg*

SUBJECT: Conflict of Interest Clearance (OGE-450):
Abedin, Huma M. - Senior Advisor
ED-0130-15, SGE

This is to advise you that we have reviewed the Executive Branch Confidential Financial Disclosure Report (OGE-450) dated March 29, 2012, (received in L/EFD May 7, 2012), which was submitted in connection with the subject appointment. Based on the information provided, we have determined that there is no apparent conflict of interest.

Ms. Abedin has received and read the Department's Ethics Guidance for Prospective Employees and has made the required certifications (copy attached).

This memorandum should be placed in the employee's Official Personnel File and a copy provided to the employee.

This clearance is valid for 60 days from date of issuance. If the appointment is not effected within 60 days, a revalidation of this clearance must be obtained.

Attachment:
As stated

cc: Ms. Abedin

Motley, Cynthia J

From: Motley, Cynthia J
Sent: Friday, June 01, 2012 10:04 AM
To: Green, Marcella M
Cc: Samuelson, Heather F; Brandt, Mark R
Subject: FW: Requesting an Interim L Clearance for Huma M. Abedin
Attachments: Ethic Signature Page.pdf; Conflict of Interest Clearance Request.pdf; Senior Advisor - Expert.pdf; OGE-450.pdf

RELEASE IN FULL

Importance: High

REVIEW AUTHORITY: Barbara Nielsen, Senior Reviewer

Ms. Green

It was brought to my attention that you informed Ms. Samuelson that I did not have the position description. It was sent over on May 5, 2012 which I have provided all attachments that was forwarded at that time.

Please let me know if you need any additional documentation.

From: Motley, Cynthia J
Sent: Saturday, May 05, 2012 9:32 PM
To: Taylor, Sarah E
Subject: Requesting an Interim L Clearance for Huma M. Abedin
Importance: High

Sarah

I would appreciate your assistance in granting a Legal Clearance for the conversion of Ms. Huma M. Abedin from the Chief of Staff to serve as a Senior Advisor - Expert (with compensation) position in the Office of the Secretary (S) ED-15 step 10. Attached are the request, OGE-450, Ethic Signature Page and classified position description.

Can you please **issue an interim clearance** which will allow us to process the Conversion/Reassignment immediately.

Please let me know if you need any additional information.

Cynthia J. Motley

Administrative Officer
S/ES-EX Room 7515 HST BLDG
Office Phone: 202-647-5638
Fax: 202-647-6040

In accordance with the policies and procedures outlined in Executive Order 12958, this e-mail is UNCLASSIFIED unless otherwise noted.

Carter, Pat

From: Carter, Pat
Sent: Tuesday, March 20, 2012 1:05 PM
To: DS PSS INTAKE
Cc: Motley, Cynthia J
Subject: Revalidation of Top Secret clearance for Huma Abedin
Attachments: 2012_03_20_13_00_58.pdf

RELEASE IN FULL

The Secretary's Deputy Chief of Staff, Ms. Huma Abedin, is being converted to a temporary Senior Advisor (Expert-SGE) appointment. The anticipated effective date of this new appointment is April 1, 2012. I would appreciate your assistance in issuing a revalidation of her top secret clearance for this new appointment. Thank you.

Patricia A. Carter
HR Expert Advisor
Executive Office of the Secretary
(S/ES-EX-HR)
Pro-tefligent, LLC, Support Contractor
Office: 202-647-8903
FAX: 202-647-3282

REVIEW AUTHORITY: Barbara Nielsen, Senior
Reviewer

Motley, Cynthia J

From:

Samuelson, Heather F
Monday, March 19, 2012 6:03 PM

Sent:

Motley, Cynthia J
Kennedy, Patrick F; Carter, Pat; Mehlenbacher, Kelly J

To:

Cc:

Huma Abedin

Subject:

Cynthia:

We are aiming to convert Huma from a NC-SES to a SGE beginning April 1st.

Can you please reach out to her with necessary paperwork to complete this transfer ASAP?

Many thanks.

Heather

Senior Reviewer

REVIEW AUTHORITY: Barbara Nielsen

RELEASE IN FULL

Motley, Cynthia J

From: Motley, Cynthia J
Sent: Wednesday, April 04, 2012 9:29 AM
To: Abedin, Huma
Subject: Financial disclosure

RELEASE IN FULL

Importance: High

REVIEW AUTHORITY: Barbara Nielsen, Senior
Reviewer

Huma

I have confirmed with the Legal Office this his assets are imputed to you so his assets are reportable on your OGE-278 which should include all of 2011 and 2012 up to the date.

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

From: Abedin, Huma
Sent: Tuesday, April 03, 2012 11:23 AM
To: Motley, Cynthia J
Subject: Financial disclosure

Anthony filed his separate disclosure last june. Nothing has changed. I don't need to include his stuff on mine, right? Just want to confirm Thanks!

GOVERNMENT ETHICS GUIDANCE

AND ACKNOWLEDGEMENT OF ETHICS GUIDANCE REVIEW

For "New Entrant" Financial Disclosure Report Filers

RELEASE IN FULL

REVIEW AUTHORITY:
Barbara Nielsen, Senior
Reviewer

The guidance below briefly summarizes the Federal ethics laws and regulations so that you may consider them during the financial disclosure review process and, more generally, in connection with your decision to serve in your prospective Government position. The guidance highlights key points, but is not comprehensive. Note especially that you will be subject to some different provisions if you serve as a "special Government employee" and to some additional provisions if you serve as a high-level "noncareer" employee.

If you are a candidate for employment with or will serve on detail to the Department, please sign and date the Acknowledgement of Ethics Guidance Review at the end of this document and return the Acknowledgement to your prospective personnel office with your completed financial disclosure report. If you are assuming a filer position from within the Department, you need only submit your completed financial disclosure report directly to L/EMP/FD within 30 days of assuming the position; you need not return the Acknowledgement (unless you are advised to submit all paperwork to your prospective management office for purposes of obtaining an ethics "pre-clearance" before you assume the position).

GOVERNMENT ETHICS GUIDANCE

General Principles of Conduct

- You will be required to respect and adhere to the general Principles of Ethical Conduct listed in Executive Order 12674 while serving in your position. For example, you may not use public office for private gain or give preferential treatment to any private organization or individual and you must avoid any actions creating the *appearance* that you are violating the law or the ethics rules.

Conflicting Financial Interests

- A conflict of interest law, 18 U.S.C. 208, will generally prohibit you from working on any Government matter that would affect your own financial interests or financial interests that are imputed to you – those of your spouse, minor child, general partner, or an organization you are serving as an officer, director, trustee, general partner, or employee.
- A conflict can usually be remedied; there are several possibilities:
 - A regulatory exemption might apply. The exemptions are listed in 5 CFR Part 2640.

- The Department might decide that you can be disqualified from doing some of your work.
- The Department might require you to divest a financial interest. Or, your spouse or minor child may have to divest stock or get rid of some other interest in order to remedy a conflict. You may be eligible to defer the capital gain consequences of a required divestiture if you obtain a "Certificate of Divestiture" *before* you divest.
- The Department might issue a waiver. (A waiver must be signed by the Secretary, Deputy Secretary, or Legal Adviser and are rarely granted.)
- You will have a continuing obligation to comply with 18 U.S.C. 208 while serving in your position. You (and your spouse and minor children) should not voluntarily acquire a financial interest that will require your disqualification from any official duties. In particular, stock divested at the time of your appointment may not be reacquired if it continues to pose a conflict.
- If working abroad, you (and your spouse and family) will have to comply with additional restrictions concerning investment activities. These restrictions are in the *Foreign Affairs Manual*, at 3 FAM 4120.

Conflicting Personal and Business Relationships

- In accordance with Subpart E of 5 CFR Part 2635, the Department may determine that you should not be permitted to work on a Government matter in view of circumstances other than those covered by the conflict of interest law.
- The Department may reserve its ability to determine later that the Government's interest in having you involved in the matter outweighs the concern that a reasonable person may question the integrity of the Department's programs and operations.
- You will have a continuing obligation to comply with Subpart E of 5 CFR Part 2635 while serving in your position. If you think that your objectivity would be questioned if you worked on a matter due to any circumstances, you should not work on the matter and should tell your supervisor about the situation. If you and your supervisor decide that your objectivity would be questioned and the work cannot be easily reassigned, you or your supervisor should describe the facts to a Department ethics attorney. The attorney will take the action necessary to determine whether you should work on the matter.
- If you received within the last two years an "extraordinary" severance payment from a former employer (as described in 5 CFR 2635.503), your disqualification from assignments affecting that employer will be mandatory.

Outside Employment and Activities

- Outside employment or an outside activity will conflict with your Government employment if it results in your disqualification from central or critical duties (Subpart H of 5 CFR Part 2635). The conflict of interest law, 18 U.S.C. 208, will generally prohibit you from working on a Government matter that would affect the financial interests of an organization you are serving as an officer, director, trustee, general partner, or employee. Under Subpart E of 5 CFR Part 2635, you might also have to be disqualified from a matter if other circumstances would cause a reasonable person to question whether you can do your Government work objectively.
- Outside employment or an outside activity will conflict with your Government position if it would be inconsistent with the Principles of Ethical Conduct in Executive Order 12674 or if a law or regulation prohibits it (Subpart H of 5 CFR Part 2635). Notably:
 - Subject to certain exceptions, you may not personally represent others (or share in compensation for another's representational services) before any court, Federal agency, or certain other Federal entities concerning matters of interest to the United States. This would include, for example, writing a letter on behalf of a private organization to a Federal department or agency. (18 U.S.C. 203, 18 U.S.C. 205)
 - You may not accept compensation for teaching, speaking, or writing in your personal capacity that is from a foreign government or, subject to an exception for certain teaching, if the activity relates to your Government duties. For most employees, an activity relates to official duties, for example, if it deals in significant part with an ongoing policy, program, or operation of the Department. Depending on the circumstances, you may be able to accept travel or travel expenses. Public speeches, writings, and teaching materials on matters of "official concern" must be submitted to the appropriate office for review before publication or use (5 CFR 2635.807, 3 FAM 4170).
 - You may not serve as an expert witness in a Federal court or agency concerning matters of interest to the United States unless you are serving on behalf of the United States or are authorized by the Department to do so. (5 CFR 2635.805)
 - If your Government position is an "office of profit or trust," you may not have any position in or receive any payment from a foreign government. (The Emoluments Clause of the U.S. Constitution)
 - You may not act as an agent of a foreign principal. (18 U.S.C. 219)

If working abroad, you (and your spouse and family) will have to comply with additional restrictions concerning outside employment and outside activities. (3 FAM 4120)

- To avoid a conflict of interest, the Department may require that you avoid or terminate an outside activity or affiliation or modify the nature of your outside activity or affiliation. You will have a continuing obligation to comply with Subpart H of 5 CFR Part 2635 (and the laws referenced in that Part) while serving in your position. You should seek advice from the Department's ethics office if there is a reasonable possibility that your outside activity would conflict with your Government position.
- Note: Although you may look for an outside job while employed by the Department, you may not be able to work on certain assignments while doing so. (18 U.S.C. 208, Subpart F of 5 CFR Part 2635) If you have to be disqualified from some of your Government work because you are trying to get an outside job, this will be an indication that the particular job might conflict with your Government position.

Misuse of Position

- You will generally be prohibited from using or permitting the use of your Government title or position for your own benefit, for the benefit of friends or family, or in connection with your participation in (or fundraising for) an outside organization. (Subpart G of 5 CFR Part 2635, 5 CFR 2635.808)
- You will be prohibited from using Government property, nonpublic information, or time (including the time of a subordinate) for other than authorized purposes. (Subpart G of 5 CFR Part 2635)

Gifts

- Subject to certain exceptions, you will be prohibited from soliciting or accepting a gift from a person or organization that does official business with or seeks official action from the Department (a "prohibited source") or that is given because of your official position. (Subpart B of 5 CFR Part 2635)
- Subject to certain exceptions, you will be prohibited from soliciting or accepting a gift from a foreign government or international or multinational organization composed of foreign governments. This restriction will also apply to your spouse and dependents. (The Emoluments Clause of the U.S. Constitution and, e.g., 5 U.S.C. 7342)
- Subject to certain exceptions, you will be prohibited from giving, contributing toward, or soliciting a contribution from another employee for a gift to your supervisor (or for the solicited employee's supervisor), and from accepting a gift from an employee who receives less pay than you unless that person is not your

subordinate and a personal friendship justifies the gift. (Subpart C of 5 CFR Part 2635)

Additional Restrictions for High-Level "Noncareer" Employees

- If you are a high-level "noncareer" (i.e., political) appointee classified above GS-15 (or serve as a Chief of Mission or Assistant Secretary or above even if you are a career employee), you may also be subject to one or more of the following:
 - An outside earned income ban or limitation. (5 CFR 2635.804, 5 CFR 2636.304)
 - Restrictions prohibiting the receipt of compensation for practicing a profession which involves a fiduciary relationship or for affiliating with or being employed to perform professional duties by an entity which provides professional services involving a fiduciary relationship. (5 CFR 2636.305)
 - A restriction prohibiting you from permitting the use of your name by an entity which provides professional services involving a fiduciary relationship. (5 CFR 2636.305)
 - A restriction prohibiting the receipt of compensation for serving as an officer or member of the board of an entity. (5 CFR 2636.306)
 - A restriction prohibiting the acceptance of compensation (including travel expenses) for outside teaching, speaking, or writing that relates to your Government duties that is broader than that applicable to other employees. (5 CFR 2635.807)
 - A requirement to seek advance approval of compensated outside teaching (5 CFR 2636.307)
 - White House policies (e.g., concerning service in certain outside positions, the use of company aircraft and accommodations, and the permissibility of employment negotiations for post-Government employment prior to termination of Government service).

Significance of "Special Government Employee" Status

- The term "special Government employee" (SGE) means a person who is employed by the Department, on a temporary basis (usually for one year at a time), for 130 days or less during any period of 365 consecutive days. The determination of SGE status is made by Department personnel offices at the time an individual is employed. If you do not know if you will be an SGE, ask your prospective personnel office.

- A few ethics laws and regulations apply differently to SGEs and a couple of provisions do not apply to SGEs at all. Notably:
 - SGEs may benefit from special exemptions or waivers in relation to 18 U.S.C. 208 (conflicting financial interests) in some circumstances, but SGEs are not eligible for Certificates of Divestiture.
 - 18 U.S.C. 203 and 18 U.S.C. 205 (representing others before the Government) apply more narrowly to SGEs and special waivers of these restrictions are available.
 - 5 CFR 2635.805 (expert testimony); 5 CFR 2635.807 (compensation for teaching, speaking, and writing); 3 FAM 4170 (clearance of teaching, speaking, and writing); and 5 CFR 2635.808 (fundraising) apply more narrowly to SGEs.
 - The Department can waive 18 U.S.C. 219 (acting as agent of foreign principal).
 - The restrictions applicable to high-level "noncareer" employees do not apply to SGEs.
- More information about these differences is available on the Department's ethics website on the intranet, at <http://ethics.state.gov>, under "Special Government Employees," or go to www.usoge.gov and select "Advisory Opinions," then choose the year 2000, then choose opinion 00 x 1 dated 2/15/00.

Political Activities

- You may not engage in certain political activities while a Government employee.
- More information about these restrictions is available on the Department's ethics website on the intranet, at <http://ethics.state.gov>, under "Political Activities."

Post-employment

- Some ethics laws and regulations may affect you while you are seeking post-Government employment and even after you terminate Government service.
- More information about these provisions is available on the Department's ethics program website at <http://ethics.state.gov>, under "Seeking Employment" and "Post-Employment" or go to www.usoge.gov and Select "Forms, Publications & Other Documents," then choose "Pamphlets," then choose "Understanding the Revolving Door."

ACKNOWLEDGEMENT OF ETHICS GUIDANCE REVIEW

I certify the following:

- 1) I have read the Department of State's "Government Ethics Guidance" for "New Entrant" Filers.
- 2) I do not receive any income, directly or through a general partnership, from any foreign government.
- 3) I am not and do not act as an agent of a foreign principal required to register under the Foreign Agent's Registration Act of 1938, as amended, or as a lobbyist required to register under the Lobbying Disclosure Act of 1995, as amended, in connection with the representation of a foreign entity.
- 4) I do not represent any other person before any court or Federal department or agency and do not receive income through a general partnership that derives from another person's representational services before any court or Federal department or agency.

Signature _____

Date _____

If you are unable to make any of the certifications above, please explain below:

OFFICE: Office of the Secretary

TITLE: Senior Advisor (Expert-SGE)

RELEASE IN FULL

Grade/Series: EB-130-15

ORG.CODE: 010101

REVIEW AUTHORITY: Barbara Nielsen, Senior
Reviewer

Organizational Location:

This position is located in the Office of the Secretary. The incumbent of this position serves as an Expert to the Secretary of State providing expert knowledge and advice on a myriad of policy, administrative and logistical issues, vital to the Secretary's ability to carry out her foreign policy mission.

Duties:

As a Senior Advisor (Expert) to the Secretary, the incumbent will provide expert advice and guidance on varying issues related to the planning of logistical arrangements for foreign and domestic missions, and for the coordination of the foreign policy requirements, press, and protocol and security components necessary for a successful and sensitive foreign policy mission. Specifically the Senior Advisor will:

- Provide expert advice and confer with other federal entities, including the White House, on policy, tactical and logistical procedures surrounding the Secretary's ongoing missions abroad;
- Advise the Secretary and other senior members of the Secretary's staff regarding the scheduling of public events, bilateral meetings, foreign missions around the world, meetings with foreign governments, covering the full range of policy, tactical and scheduling issues involved with moving the Secretary from point to point, in a secure and timely manner.
- Undertake such other initiatives as assigned by the Secretary including advising and serving on special projects for major international missions; advises on the operational methods for carrying out a successful international mission.
- May attend meetings, domestically and internationally with and on behalf of the Secretary on a range of policy issues; and may advise on, administer, or perform research in the assessment of procedural methods, and make recommendations on revamping or improvement of key programs and policies.

KNOWLEDGE AND SKILLS REQUIRED – FL 1-8, 1550 Points

The incumbent must possess a sufficiently broad perspective to advise on multiple foreign policy issues of interest to the Secretary, covering a broad range of subjects. The incumbent must be

knowledgeable of current Departmental and Administration initiatives and priorities associated with policy issues, foreign policy, foreign policy trends and policy formation. The incumbent must have the ability to bring about substantive issues creatively and yet pragmatically; perceive and articulate complex relationships among diverse issues; and present arguments in an interesting persuasive manner. Incumbent must have expert negotiating and communications skills, both oral and in written form, to explain and defend specific recommendations or reconcile conflicting views. Incumbent must have a mastery of the principles and practices of administrative and logistical program planning, and the ability to analyze substantive programmatic issues imaginatively, creatively and pragmatically.

SUPERVISORY CONTROLS – FL 2-5, 650 Points

The incumbent often recommends specific initiatives, whose scope and objective derive from foreign policy expertise and liaison activities. The incumbent is responsible for planning, coordinating and carrying out projects, and informing the Secretary of progress as appropriate. The work is considered technically accurate and is not subject to detailed substantive review, except for compliance with broad Department policy and responsiveness to the need of the Secretary.

GUIDELINES – FL 3-5, 650 Points

The guidelines include basic legislation and broad agency policy statements. Frequently, there are no precedents to govern behavior in unusual and sensitive situations. The incumbent must exercise considerable judgment in interpreting and adapting existing precedents and in developing new or improved approaches to analyze, develop, and present authoritative information or analysis on controversial and nationally important subjects to persons with conflicting views. The methods and procedures developed often serve as precedents for others.

COMPLEXITY – FL 4-6, 450 Points:

The assignment involves providing expert analytical and advisory support for the planning, development, and execution of U.S. foreign policy. The work requires applying a rigorous analytical approach to data that is often vague, unsubstantiated, or contradicts existing knowledge. The same approach must be applied to developing analyses that provide new perspectives for the understanding of complex political, economic, social, geographic, or military issues. The work involves providing expert advice and guidance that influences the decisions and actions of the Secretary and other senior policy officials; and involves the need to quickly, accurately, and decisively determine the relevance and significance of information to the policy interests of the Department. The incumbent is responsible for coordinating a myriad of other agency requirements to carry out their initiatives; for ascertaining the need for initiating, and conducting in-depth studies on topics of critical importance to the policy formulation process. The assignment also involves identifying and developing improved methods and approaches to the research and analysis process.

SCOPE AND EFFECT – FL 5-6, 450 Points:

The purpose of the work is to provide the Secretary with expert foreign affairs analysis and

advisory services within a broad and complex geographic or functional area that supports the planning, development, and execution of U.S. foreign policy. The scope of assignment area is substantial and includes defining information requirements, monitoring and reporting on important global developments, analyzing complex political, social, and economic issues, providing guidance to the Secretary and policy makers in interpreting and applying data, establishing and maintaining productive relationships within the foreign affairs community, and planning and carrying out special research studies that address critical issues of broad scope and impact. The services provided by the incumbent contribute in a significant fashion to the accomplishment of key foreign policy objectives by providing valid, reliable, time sensitive analyses of vital issues that enable policy makers to reach informed foreign policy decisions. The incumbent's efforts also result in the development of improved methods and approaches and the establishment of productive relationships within the foreign affairs community.

PERSONAL CONTACTS – FL 6-4, 110 Points:

The incumbent is required to work closely with officials at all levels, particularly with policy and senior staff, high level analysis and program staff in other Department bureaus and offices as well as others in the U.S. Government; and provides the Secretary and other Principals with a broad range of variable alternatives for the United States on current and emerging policy issues.

PURPOSE OF CONTACTS – FL 7-4, 220 Points:

Contacts are to exchange information, present analyses, provide guidance, plan, organize, and coordinate activities, establish liaison, represent the Department, resolve problems, and respond to urgent developments. A high degree of persuasiveness is required to gain acceptance of highly consequential analytical judgments, to defend recommendations for significant changes in established analytical methods, and to overcome intense resistance in reaching consensus on controversial issues.

PHYSICAL DEMANDS – FL 8-1, 5 Points:

The work is sedentary and is usually accomplished seated comfortably at a desk. The work generally does not impose unusual physical demands on the incumbent. Periodically some walking and traveling is required.

WORK ENVIRONMENT – FL 9-1, 5 Points:

The majority of the work is performed in a standard office setting, which is properly heated and ventilated.

Total Points: 4090

GS-15 grade range: 4055-up

Taylor, Sarah E

To: Abedin, Huma
Subject: Termination OGe-278

RELEASE IN FULL

Importance: High

REVIEW AUTHORITY: Barbara Nielsen, Senior
Reviewer

Hello Huma,

I have your termination OGE-278 report and the financial disclosure report for the Senior Advisor position. While reviewing your termination OGE-278, I noticed your spouse had several assets that weren't reported on your report. Can you kindly provide an end of year summary statement so that I can update your report accurately?

Sarah E. Taylor
Chief, Financial Disclosure Division
L/efd
SA-1, Rm H-228
2401 E Street NW
Washington, DC 20522-0102
tel: 202 663-3122
Fax: 202 663-3339
email: Taylorse2@state.gov

Taylor, Sarah E

From: Motley, Cynthia J
Sent: Saturday, May 05, 2012 9:32 PM
To: Taylor, Sarah E
Subject: Requesting an Interim L Clearance for Huma M. Abedin
Attachments: Ethic Signature Page.pdf; Conflict of Interest Clearance Request.pdf; Senior Advisor - Expert.pdf; OGE-450.pdf

RELEASE IN FULL

Importance: High
Follow Up Flag: Follow up
Due By: Saturday, May 05, 2012 4:00 PM
Flag Status: Flagged

REVIEW AUTHORITY: Barbara Nielsen,
Senior Reviewer

Sarah

I would appreciate your assistance in granting a Legal Clearance for the conversion of Ms. Huma M. Abedin from the Chief of Staff to serve as a Senior Advisor - Expert (with compensation) position in the Office of the Secretary (S) ED-15 step 10. Attached are the request, OGE-450, Ethic Signature Page and classified position description.

Can you please **issue an interim clearance** which will allow us to process the Conversion/Reassignment immediately.

Please let me know if you need any additional information.

Cynthia J. Motley

Administrative Officer
S/ES-EX Room 7515 HST BLDG
Office Phone: 202-647-5638
Fax: 202-647-6040

In accordance with the policies and procedures outlined in Executive Order 12958, this e-mail is UNCLASSIFIED unless otherwise noted.

5/7/2012 8:28 AMB:28 AM

Jordan, Angela M

From: Green, Marcella M
Sent: Thursday, August 29, 2013 8:11 AM
To: Youel Page, Kathryn
Subject: FW: Abedin, Huma

This email is UNCLASSIFIED.

RELEASE IN FULL

REVIEW AUTHORITY: Barbara Nielsen, Senior
Reviewer

From: Samuelson, Heather F
Sent: Friday, June 22, 2012 8:56 AM
To: Taylor, Sarah E; Green, Marcella M
Subject: RE: Abedin, Huma

Sarah – thanks. Can you please send me what she still owes? She thought this was completed

From: Taylor, Sarah E
Sent: Friday, June 22, 2012 8:46 AM
To: Green, Marcella M
Cc: Samuelson, Heather F
Subject: RE: Abedin, Huma

Yes, she was supposed to give me some information regarding her spouse's assets and she has not done so.

Sarah E. Taylor
Chief, Financial Disclosure Division
L/efd
SA-1, Rm H-228
2401 E Street NW
Washington, DC 20522-0102
tel: 202 663-3122
Fax: 202 663-3339
email: Taylorse2@state.gov

From: Green, Marcella M
Sent: Thursday, June 21, 2012 6:48 PM
To: Taylor, Sarah E
Subject: Abedin, Huma

Hi Sarah:

Are you working Huma Abedin's termination report? Looks like you are on the database. M/WHL was asking status—they want to make sure everything is tied up before we go live.

Thanks,
-Marcella

Marcella M. Green

Attorney Adviser

Office of the Legal Adviser - L-EFD

202/663-2995

Jordan, Angela M

From: Green, Marcella M
Sent: Thursday, August 29, 2013 8:10 AM
To: Youel Page, Kathryn
Subject: FW: Abedin

RELEASE IN FULL

This email is UNCLASSIFIED.

REVIEW AUTHORITY: Barbara Nielsen, Senior
Reviewer

From: Martin, Janice N
Sent: Monday, June 04, 2012 1:54 PM
To: Taylor, Sarah E
Cc: Green, Marcella M
Subject: FW: Abedin

Sarah, can you assist? Thanks Janice

This email is UNCLASSIFIED.

From: Green, Marcella M
Sent: Monday, June 04, 2012 1:53 PM
To: Martin, Janice N
Subject: RE: Abedin

Janice-

Would you kindly send Ms. Abedin a link to the OGE 278 instructions that are on the form? Was trying to link to the directions on OGE's website but I cannot seem to forward it from here. Thanks! -M

From: Martin, Janice N
Sent: Monday, June 04, 2012 1:50 PM
To: Green, Marcella M
Cc: Andrews, Sharon H
Subject: RE: Abedin

Are we talking about the clearance or the report? Janice

This email is UNCLASSIFIED.

From: Green, Marcella M
Sent: Monday, June 04, 2012 1:49 PM
To: Martin, Janice N
Cc: Andrews, Sharon H
Subject: RE: Abedin

Can we get it back?

From: Martin, Janice N
Sent: Monday, June 04, 2012 1:42 PM
To: Green, Marcella M
Cc: Andrews, Sharon H
Subject: RE: Abedin

Paperwork was given to Sharon this morning.

This email is UNCLASSIFIED.

From: Green, Marcella M
Sent: Monday, June 04, 2012 1:41 PM
To: Martin, Janice N
Subject: Abedin

Janice-

If you haven't sent the Abedin papers on yet, would you hold them for a moment? Thanks!

Marcella M. Green
Attorney Adviser
Office of the Legal Adviser
L-EFD
202/663-2995

Jordan, Angela M

From: Green, Marcella M
Sent: Thursday, August 29, 2013 8:05 AM
To: Youel Page, Kathryn
Subject: FW: Requesting an Interim L Clearance for Huma M. Abedin
Attachments: Ethic Signature Page.pdf; Conflict of Interest Clearance Request.pdf; Senior Advisor - Expert.pdf; OGE-450.pdf

Importance: High

RELEASE IN FULL

REVIEW AUTHORITY: Barbara Nielsen,
Senior Reviewer

This email is UNCLASSIFIED.

From: Motley, Cynthia J
Sent: Friday, June 01, 2012 10:04 AM
To: Green, Marcella M
Cc: Samuelson, Heather F; Brandt, Mark R
Subject: FW: Requesting an Interim L Clearance for Huma M. Abedin
Importance: High

Ms. Green

It was brought to my attention that you informed Ms. Samuelson that I did not have the position description. It was sent over on May 5, 2012 which I have provided all attachments that was forwarded at that time.

Please let me know if you need any additional documentation.

From: Motley, Cynthia J
Sent: Saturday, May 05, 2012 9:32 PM
To: Taylor, Sarah E
Subject: Requesting an Interim L Clearance for Huma M. Abedin
Importance: High

Sarah

I would appreciate your assistance in granting a Legal Clearance for the conversion of Ms. Huma M. Abedin from the Chief of Staff to serve as a Senior Advisor – Expert (with compensation) position in the Office of the Secretary (S) ED-15 step 10. Attached are the request, OGE-450, Ethic Signature Page and classified position description.

Can you please **issue an interim clearance** which will allow us to process the Conversion/Reassignment immediately.

Please let me know if you need any additional information.

Cynthia J. Motley

Administrative Officer
S/ES-EX Room 7515 HST BLDG
Office Phone: 202-647-5838
Fax: 202-647-6040

In accordance with the policies and procedures outlined in Executive Order 12958, this e-mail is UNCLASSIFIED unless otherwise noted.

CONFLICT OF INTEREST CLEARANCE REQUEST

Use this form to request a pre-employment clearance from L/EMP/FD for each candidate for employment with the Department who must file a new entrant SF-278 or OGE Form 450, including a prospective SGE or SGE who is being reappointed.

Date: May 5, 2012

Filer's name:

RELEASE IN PART
B6

Abedin. Human
(LAST) (FIRST) (M/I)

REVIEW AUTHORITY: Barbara
Nielsen, Senior ReviewerFiler's work telephone: 202-647-5601

Filer's home telephone: _____

Filer's Cell Phone:

Filer's home address: _____

Filer's e-mail address: AbedinH@state.govFiler's Civil Service pay grade or Foreign Service rank: ED-130-15 Senior Adviser - ExpertPosition for which filing and office symbol or post: Office of the Secretary

Is the individual a limited non career appointee in the Foreign service who is a political appointee, a non career member of the SES, or a Schedule C employee?

(yes) X
(no)

Is the individual annuitant being hired as a WAE?

(yes) X
(no)

Is the individual being designated as an SGE?

X
(yes) (no)

If being designated as an SGE, on how many days is the individual expected to perform work during the 365 days after appointment? 130 days

If being reappointed as an SGE, on how many days will the individual have performed work during the 365 days prior to reappointment? N/A

Requesting officer's name and telephone: Conthia L Motley x79661

Requesting officer's signature

Conversion effective ASAP o

Attachments: 1. Completed OGE form 450 and L/EMP/FD signature page ✓

2. Position description or work requirements

Motley, Cynthia J

From: Abedin, Huma
Sent: Tuesday, March 27, 2012 4:20 PM
To: Motley, Cynthia J
Subject: Re: Conversion to an Expert Appointment

RELEASE IN PART B6

Hi - just left you msg. Call back ayc.

Have a few questions.

One is time sensitive, I need to come down to state tomorrow. Can state start paying for my travel since ny is now my base? I've been paying personally for the last 6 months. Thanks.

B6

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

From: Motley, Cynthia J
Sent: Monday, March 26, 2012 12:00 PM
To: Abedin, Huma
Cc: Samuelson, Heather F; Carter, Carol P
Subject: Conversion to an Expert Appointment

REVIEW AUTHORITY:
Barbara Nielsen, Senior
Reviewer

Huma

I am back in the office today please give me a call on 202-647-9661.

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

From: Motley, Cynthia J
Sent: Thursday, March 22, 2012 11:40 PM
To: Abedin, Huma
Cc: Samuelson, Heather F; Carter, Carol P
Subject: RE: Conversion to an Expert Appointment

Huma

I will be on leave Friday March 23rd returning on Monday. If you need immediate assistant contact Carol P. Carter on 202-647-6090.

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

From: Abedin, Huma
Sent: Thursday, March 22, 2012 7:01 PM
To: Motley, Cynthia J
Cc: Samuelson, Heather F; Carter, Carol P
Subject: Re: Conversion to an Expert Appointment

Can I call you about this? Have a bunch of questions. Thanks

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

From: Motley, Cynthia J
To: Huma Abedin
Cc: Heather Samuelson
Cc: Carter, Carol P
Subject: Conversion to an Expert Appointment
Sent: Mar 21, 2012 5:32 AM

Huma

I have been advised to begin the process to convert you from your Non-Career SES position as Senior Adviser (Expert- SGE) in the Office of the Secretary which is to be effective April 1, 2012. In order to initiate the conversion appointment I will need the following from you as soon as possible:

1. An updated resume which includes your current Deputy Chief of Staff for Operations position.
2. The attached SF-278 Financial Disclosure Report must be completed for your termination from the Non-Career SES appointment.
3. A copy of the SF-278 can be used with the attached front cover sheet of the OGE-450 Financial Disclosure that must be completed and signed to obtain an Ethics clearance for the conversion appointment.
4. A new signed copy of the Ethics signature page.

Please let me know if you have any questions.

Cynthia J. Motley
Administrative Officer
S/ES-EX Room 7515 HST BLDG
Office Phone: 202-647-9661
Fax: 202-647-6040

In accordance with the policies and procedures outlined in Executive Order 12958, this e-mail is UNCLASSIFIED unless otherwise noted.

RELEASE IN PART
B6REVIEW AUTHORITY: Barbara Nielsen, Senior
Reviewer

POSITION DESCRIPTION (Please Read Instructions on the Back)

2. Reason for Submission <input type="checkbox"/> Reassignment <input checked="" type="checkbox"/> New <input type="checkbox"/> Reestablishment <input type="checkbox"/> Other		3. Service <input checked="" type="checkbox"/> Hdqrs. <input type="checkbox"/> Field		4. Employing Office Location S		5. Duty Station WASHINGTON, D.C.		1. Agency Position No. E-10562	
7. Fair Labor Standards Act <input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Nonexempt		8. Financial Statements Required <input type="checkbox"/> Executive Personnel Financial Disclosure <input checked="" type="checkbox"/> Employment and Financial Interests		9. Subject to IA Action <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		10. Position Status <input type="checkbox"/> Competitive <input checked="" type="checkbox"/> Excepted (Specify in remarks) SES (Gen.) <input type="checkbox"/> SES (CR)		11. Position Is: <input type="checkbox"/> Supervisory <input type="checkbox"/> Managerial <input checked="" type="checkbox"/> Neither	
12. Sensitivity <input type="checkbox"/> 1-Minor <input checked="" type="checkbox"/> 3-Critical <input type="checkbox"/> 2-Moderate <input type="checkbox"/> 4-Special		13. Competitive Level Code		14. Agency Use		15. Classified/Graded by a. U.S. Office of Personnel Management		16. Department, Agency, or Establishment	
b. Department, Agency or Establishment		c. Second Level Review		d. First Level Review		e. Recommended by Supervisor or Initiating Office		17. Name of Employee (If vacant, specify)	
18. Organizational Title of Position (If different from official title) 010101		19. Employee Review—This is an accurate description of the major duties and responsibilities of my position.		20. Supervisory Certification. I certify that this is an accurate statement of the major duties and responsibilities of this position and is organizational relationships, and that the position is necessary to carry out Government functions for which I am responsible. This certification is made with the knowledge that this information is to be used for salary purposes relating to appointment and payment of public funds, and that false or misleading statements may constitute violations of such statutes or their implementing regulations.		21. Typed Name and Title of Immediate Supervisor HILLARY RODHAM CLINTON SECRETARY OF STATE		22. Typed Name and Title of Higher-Level Supervisor or Manager (optional)	
Signature		Date (mm-dd-yyyy)		Signature		Date (mm-dd-yyyy)		23. Classification/Job Grading Certification. I certify that this position has been classified/graded as required by Title 5, U.S. Code, in conformance with standards published by the U.S. Office of Personnel Management or, if no published standards apply directly, consistently with the most applicable published standards.	
Signature		Date (mm-dd-yyyy)		Signature		Date (mm-dd-yyyy)		24. Position Classification Standards Used in Classifying Grading Position GS-0130 Series Definition Policy Analysis Grade Evaluation Guide TS-52 MARCH 1981	
Signature		Date (mm-dd-yyyy)		Signature		Date (mm-dd-yyyy)		25. Information for Employees. The standards, and information on their application, are available in the personnel office. The classification of the position may be reviewed and corrected by the agency or the U.S. Office of Personnel Management. Information on classification/job grading appeals, and complaints on exemption from FLSA, is available from the personnel office or the U.S. Office of Personnel Management.	
Signature		Date (mm-dd-yyyy)		Signature		Date (mm-dd-yyyy)		26. Position Review	
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Signature		Date (mm-dd-yyyy)		Signature		Date (mm-dd-yyyy)		86. Position Review	
Signature		Date (mm-dd-yyyy)		Signature		Date (mm-dd-yyyy)		87. Position Review	
Signature		Date (mm-dd-yyyy)		Signature		Date (mm-dd-yyyy)		88. Position Review	
Signature		Date (mm-dd-yyyy)		Signature		Date (mm-dd-yyyy)		89. Position Review	
Signature		Date (mm-dd-yyyy)		Signature		Date (mm-dd-yyyy)		90. Position Review	
Signature		Date (mm-dd-yyyy)		Signature		Date (mm-dd-yyyy)		91. Position Review	
Signature		Date (mm-dd-yyyy)		Signature		Date (mm-dd-yyyy)		92. Position Review	
Signature		Date (mm-dd-yyyy)		Signature		Date (mm-dd-yyyy)		93. Position Review	
Signature		Date (mm-dd-yyyy)		Signature		Date (mm-dd-yyyy)		94. Position Review	
Signature		Date (mm-dd-yyyy)		Signature		Date (mm-dd-yyyy)		95. Position Review	
Signature		Date (mm-dd-yyyy)		Signature		Date (mm-dd-yyyy)		96. Position Review	
Signature		Date (mm-dd-yyyy)		Signature		Date (mm-dd-yyyy)		97. Position Review	
Signature		Date (mm-dd-yyyy)		Signature		Date (mm-dd-yyyy)		98. Position Review	
Signature		Date (mm-dd-yyyy)		Signature		Date (mm-dd-yyyy)		99. Position Review	
Signature		Date (mm-dd-yyyy)		Signature		Date (mm-dd-yyyy)		100. Position Review	

DEPARTMENT OF STATE

OFFICE OF THE SECRETARY

HILLARY RODHAM CLINTON
SECRETARY OF STATEPAUL GILMORE
CHIEF, HR SHARED SERVICES

3/23/12

4/5/12

GS-0130 Series Definition

Policy Analysis Grade Evaluation Guide

TS-52 MARCH 1981

Information for Employees. The standards, and information on their application, are available in the personnel office. The classification of the position may be reviewed and corrected by the agency or the U.S. Office of Personnel Management. Information on classification/job grading appeals, and complaints on exemption from FLSA, is available from the personnel office or the U.S. Office of Personnel Management.

23. Position Review

a. Employee (optional)

b. Supervisor

c. Classifier

24. Remarks

This is a Temporary Excepted Service position which does not confer competitive status. The incumbent serves as a Senior Advisor, Expert-Special Government Employee (SGE), at the pleasure of the Secretary and may be terminated at any time.

25. Description of Major Duties and Responsibilities (See Attached)

NSN 7540-00-834-4265 Previous Edition Usable 5008-108

OF 8 (Rev. 1-85)
U.S. Office of Personnel Management
FPM Chapter 295

REVIEW AUTHORITY: Barbara Nielsen, Senior				RELEASE IN PART			
Reviewer POSITION DESCRIPTION (Please Read Instructions on the Back)				B6		1. Agency Position No. D-10006	
2. Reason for Submission <input type="checkbox"/> Redescription <input type="checkbox"/> Reestablishment Explanation (Show any positions replaced)		3. Service <input checked="" type="checkbox"/> New <input checked="" type="checkbox"/> Hdqrs. <input type="checkbox"/> Field <input type="checkbox"/> Other		4. Employing Office Location S		5. Duty Station WASHINGTON, D.C.	
7. Fair Labor Standards Act <input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Nonexempt		8. Financial Statements Required <input type="checkbox"/> Executive Personnel <input type="checkbox"/> Financial Disclosure <input checked="" type="checkbox"/> Employment and Financial Interest		9. Subject to IA Action <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		10. Competitive Level Code	
10. Position Status <input type="checkbox"/> Competitive <input checked="" type="checkbox"/> Excepted (Specify in remarks) SES (Gen.) <input type="checkbox"/> SES (CR)		11. Position is: <input type="checkbox"/> Supervisory <input type="checkbox"/> Managerial <input checked="" type="checkbox"/> Neither		12. Sensitivity <input type="checkbox"/> 1-Non-Sensitive <input type="checkbox"/> 2-Noncritical <input checked="" type="checkbox"/> 3-Critical <input type="checkbox"/> 4-Special		14. Agency Use	
16. Classified/Graded by		Official Title of Position		Pay Plan		Occupational Code	
a. U.S. Office of Personnel Management							
b. Department, Agency or Establishment		Senior Advisor		ED		130	
c. Second Level Review						15	
d. First Level Review						15	
e. Recommended by Supervisor or Initiating Office		SENIOR ADVISOR (Expert-SGE)		EF		130	
16. Organizational Title of Position (If different from official title)		010101		17. Name of Employee (If vacant, specify)		HUMA M. ABEDIN	
18. Department, Agency, or Establishment		DEPARTMENT OF STATE		c. Third Subdivision			
a. First Subdivision		OFFICE OF THE SECRETARY		d. Fourth Subdivision			
b. Second Subdivision				e. Fifth Subdivision			
19. Employee Review: This is an accurate description of the major duties and responsibilities of my position.		Signature of Employee (optional)		Date (mm-dd-yyyy)			
20. Supervisory Certification: I certify that this is an accurate statement of the major duties and responsibilities of this position and its organizational relationships, and that the position is necessary to carry out Government functions for which I am responsible. This certification is made with the knowledge that this information is to be used for salary purposes relating to appointment and payment of public funds, and that false or misleading statements may constitute violations of such statutes or their implementing regulations.		a. Typed Name and Title of Immediate Supervisor		b. Typed Name and Title of Higher-Level Supervisor or Manager (optional)			
		HILLARY RODHAM CLINTON SECRETARY OF STATE					
Signature		Date (mm-dd-yyyy)		Signature		Date (mm-dd-yyyy)	
		3/23/12					
21. Classification/Job Grading Certification: I certify that this position has been classified/graded as required by Title 5, U.S. Code, in conformance with standards published by the U.S. Office of Personnel Management or, if no published standards apply directly, consistently with the most applicable published standards.		22. Position Classification Standards Used in Classifying/Grading Position		GS-0130 Series Definition		Policy Analysis Grade Evaluation Guide	
Typed Name and Title of Official Taking Action		PAUL GILMORE CHIEF, HR SHARED SERVICES		TS-SR		MARCH 1981	
Signature		Date (mm-dd-yyyy)		Information for Employees: The standards, and information on their application, are available in the personnel office. The classification of the position may be reviewed and corrected by the agency or the U.S. Office of Personnel Management. Information on classification/job grading appeals, and complaints on exemption from FLSA, is available from the personnel office or the U.S. Office of Personnel Management.			
		4/4/12					
23. Position Review		Initials		Date (mm-dd-yyyy)		Initials	
a. Employee (optional)							
b. Supervisor							
c. Classifier							
24. Remarks This is a Temporary Excepted Service position which does not confer competitive status. The incumbent serves as a Senior Advisor, Expert-Special Government Employee (SGE), at the pleasure of the Secretary and may be terminated at any time.							
25. Description of Major Duties and Responsibilities (See Attached)							

NSN 7540-00-634-4265

Previous Edition Usable

500B-108

OF 8 (Rev. 1-85)
U.S. Office of Personnel Management
FPM Chapter 295

ACKNOWLEDGEMENT OF ETHICS GUIDANCE REVIEW

RELEASE IN PART
B6

I certify the following:

- 1) I have read the Department of State's "Government Ethics Guidance" for "New Entrant" Filers.
- 2) I do not receive any income, directly or through a general partnership, from any foreign government.
- 3) I am not and do not act as an agent of a foreign principal required to register under the Foreign Agent's Registration Act of 1938, as amended, or as a lobbyist required to register under the Lobbying Disclosure Act of 1995, as amended, in connection with the representation of a foreign entity.
- 4) I do not represent any other person before any court or Federal department or agency and do not receive income through a general partnership that derives from another person's representational services before any court or Federal department or agency.

REVIEW
AUTHORITY:
Barbara Nielsen,
Senior Reviewer

Signature

Date

3/29/2012

B6

If you are unable to make any of the certifications above, please explain below:

Jordan, Angela M

RELEASE IN PART B3
, 5 U.S.C. app
107(a)(Ethics in
Government Act of
1978), B6

From: Green, Marcella M
Sent: Friday, June 01, 2012 5:07 PM
To: 'Huma Abedin'
Subject: RE:

REVIEW AUTHORITY: Barbara Nielsen, Senior
Reviewer

Wonderful! Thank you!

From: Huma Abedin [mailto:Huma@clintonemail.com]
Sent: Friday, June 01, 2012 5:06 PM
To: Green, Marcella M
Subject: Re:

That's fine with me if it works for you.

From: Green, Marcella M [mailto:GreenMM@state.gov]
Sent: Friday, June 01, 2012 01:46 PM
To: Huma Abedin
Subject: RE:

On the OGE 278, that's fine—that report is for your old position.

But might we move ahead with the OGE 450? (They want you cleared today if possible). The only difference for that report is that the [redacted] assets were added. You don't need to re-sign that one. Please let me know—I'm at the number below if you wish to talk. Thanks! -Marcella

B3, B6

Marcella M. Green
Attorney Adviser
Office of the Legal Adviser - L-EFD
202/663-2995

From: Huma Abedin [mailto:Huma@clintonemail.com]
Sent: Friday, June 01, 2012 1:43 PM
To: Green, Marcella M
Subject: Re:

Marcella - thank you so much for all your help to make this transition. I really appreciate it. I didn't realize that I would need to sign and scan back.

I'm somewhere remote without access to a computer for a few hours. I'll be back in office tomorrow. Could I send this tomorrow?

From: Green, Marcella M [mailto:GreenMM@state.gov]
Sent: Friday, June 01, 2012 12:52 PM
To: Huma Abedin
Subject:

Hi Huma:

As discussed, attached are our new OGE 450 report for the new position as well as a new joint termination/incumbent OGE 278 report for the old one.

If the OGE 450 looks right, please let me know and we will move ahead to clear.

The new joint termination/annual OGE 278 is the report you filed as an incumbent, but we needed to add a new signature page. Please sign and date the front page and return it to me—a scanned version is perfectly fine. Also, it looks like Schedule B (transactions and gifts) and Schedule C Part II (outside agreements) were not completed—had you meant to check the none boxes for those sections? Happy to do that for you on this end if that is the case.

Many thanks for your cooperation. If you have any questions whatsoever, please let me know.

Best Regards,
-Marcella

Marcella M. Green
Attorney Adviser
Office of the Legal Adviser - L-EFD
202/663-2995

RELEASE IN PART
B6

Search Results

ID	Year	Last Name	First/ Mid. Init	Title	Status	Type	Grade	Select
	2012	ABEDIN	HUMA M	SENIOR ADVISOR	New Entrant	OGE-450 pr	ED-130-15 SG	<input type="checkbox"/>
	CY08	Abedin	Huma M	DEPUTY CHIEF OF	New Entrant	SF-278 Pre-	GS-15 Schedul	<input type="checkbox"/>
	CY09	ABEDIN	HUMA M	DEPUTY CHIEF OF	Incumbent	SF-278	GS-15 Schedul	<input type="checkbox"/>
	CY09	ABEDIN	HUMA M	DEPUTY CHIEF OF	New Entrant	SF-278 Pre-	ES-00 Non-Car	<input type="checkbox"/>
	CY10	ABEDIN	HUMA M	DEPUTY CHIEF OF	Incumbent	SF-278	ES-00 Non-Car	<input type="checkbox"/>
	CY11	ABEDIN	HUMA M	SENIOR ADVISOR	Incumbent	OGE-278	ES-00 Non-Car	<input type="checkbox"/>
	CY12	ABEDIN	HUMA M	SENIOR ADVISOR	Termination	OGE-278	ES-00 Non-Car	<input type="checkbox"/>

B6

Create Record

Tip! Choose the record you would like to EDIT by clicking its 'Select' box, in the right-most column.

Close

REVIEW AUTHORITY: Barbara Nielsen, Senior
Reviewer

RELEASE IN PART B6

REVIEW AUTHORITY: Barbara Nielsen, Senior Reviewer

Financial Disclosure Tracking System

Home Create External Data Database Tools Approval

Startup Form Entrant Options Form Financial Disclosure Search Search Results Form Entrant Edit

Edit Record 5/16/2012 8/14/2015 4:09:51 PM

Current Status: **Pending** Year: **2012** Filter ID:

Report Received: 5/7/2012 Record Created: 5/7/2012 Assigned to Reviewer Date: 5/7/2012 Sent to Certifier: 5/7/2012 Sent Back to Reviewer: Certified: 6/1/2012 Report Sent to OIG: 6/1/2012

Employee Data Report Data Compliance Remedies Comments Extensions and Late Filings Training Loaned Files Create Memo Stock Act

Navigation Pane

Employee Information

Employee ID: Last Name: First Name / Middle Initial: Type: Status: New Entrant: ☐

Short Comment/Note: 50 characters max. Email: ABECDIN@state.gov Grade: Enter 'Unknown' if not known. WAE SGE Status: ☐

Title: SENIOR ADVISOR Post: Enter 'Unknown' if not known. WAE SGE Status: ☐

Current Human Resource Data - view only

Effective Date: EOD: 1/22/2009 Tour Duty Date: Position: Pay Plan: Employee Pay Plan: ☐

NOA Code: Tenure Code: Transfer Elig. Date: Pay Grade: ☐

File Types: Stock Act records: ☐

Print Activity Sheet Update HR Delete Save Close

Form View Num Lock

RELEASE IN PART B6

REVIEW AUTHORITY: Barbara Nielsen, Senior Reviewer

Financial Disclosure Tracking System

File Home Create External Data Database Tools Acrobat

Startup Form Entrant Options Form Financial Disclosure Search Search Results Form Entrant Edit

Edit Record

Current Status: **Reviewed** Year: **2011** Filer ID: **58041** 8/4/2015 4:07:59 PM
8/4/2015
Taylor:SE2

Report Received: 5/7/2012 Record Created: 5/7/2012 Assigned to Reviewer Date: 5/7/2012 Sent to Certifier: 5/7/2012 Sent Back to Reviewer: Certified: 9/13/2012 Report Sent to OGE

Employee Data Report Data Compliance Remedies Comments Extensions and Late Filings Training Loaned Files Create Memo Stock Act

Employee Information

Employee ID: Last Name: First Name / Middle Initial: Type: Status: Registered Lobbyist? Political Appointment?

ASADIN JUMAN OGE-278 Incumbent

Short Comment/Note: 50 characters max. Email: Grade: Enter 'unknown' if not known. ES-00 Non-Career

Title: SENIOR ADVISOR Post: Enter 'unknown' if not known. WAE/SGE Status:

Current Human Resource Data - view only

Effective Date	EOB	Tour Duty Date	Position	Employee Pay Plan
5/22/2009			ES	ES
NOA Code	Tenure Code	Transfer Elig. Date	Pay Grade	Pay Grade
	12		00	00

File Type: Stock Act records n

Print Activity Sheet Update HR Delete Save Close

Form View Num Lock

B6

B6

Jordan, Angela M

From: Green, Marcella M
Sent: Thursday, August 29, 2013 8:09 AM
To: Youel Page, Kathryn
Subject: FW: disclosure questions

RELEASE IN PART B6

This email is UNCLASSIFIED.

REVIEW AUTHORITY: Barbara Nielsen, Senior
Reviewer

From: Green, Marcella M
Sent: Monday, June 04, 2012 1:36 PM
To: Samuelson, Heather F
Cc: Taylor, Sarah E
Subject: FW: disclosure questions

Hi Heather-

I did not see these listed on the OGE 450 she provided to Sarah—nor do I recall seeing them on the prior-filed OGE 278s, fyl. If there are no conflicts, we can amend the cleared document but I will need her to confirm that that is the case.

From: Huma Abedin [<mailto:Huma@clintonemail.com>]
Sent: Monday, June 04, 2012 11:41 AM
To: Samuelson, Heather F; Green, Marcella M
Subject: FW: disclosure questions

my husband just reviewed the form and provided the following.
this was included in the document sent to sarah but doesnt seem to be incorporated. so checking to be sure you dont need this on there as well.

From: Weiner, Anthony [REDACTED]
Sent: Monday, June 04, 2012 11:30 AM
To: Huma Abedin
Subject: disclosure questions

B6

1. I see this is for calendar year 2011. I was asked for the period ending 1/31/12. should I provide 12/31 instead?

B6



2. I wasn't asked for all transactions in 2011 that exceeded \$1000. these are all sales less than \$15k:

B6



B6



3. is there any obligation to report MY income or sources?

Jordan, Angela M

From: Green, Marcella M
Sent: Thursday, August 29, 2013 8:11 AM
To: Youel Page, Kathryn
Subject: FW: disclosure questions

RELEASE IN PART B6

REVIEW AUTHORITY: Barbara Nielsen,
Senior Reviewer

This email is UNCLASSIFIED.

From: Huma Abedin [mailto:Huma@clintonemail.com]
Sent: Tuesday, June 05, 2012 10:41 AM
To: Green, Marcella M; Samuelson, Heather F
Cc: Taylor, Sarah E; Martin, Janice N
Subject: RE: disclosure questions

answers in CAPS below

From: Green, Marcella M [GreenMM@state.gov]
Sent: Monday, June 04, 2012 1:31 PM
To: Huma Abedin; Samuelson, Heather F
Cc: Taylor, Sarah E; Martin, Janice N
Subject: RE: disclosure questions

Thanks Huma—

I did not see this on the OGE 450, but we can amend that report.

For the OGE 450 (New Entrant report), did you hold more than \$1,000 in each of these holdings as of the day you signed the report? Please let me know—we will need to amend. Also, do you anticipate in the new position participating in matters involving any of these entities? NO, MY NEW POSITION IS IDENTICAL TO MY OLD POSITION.

As to transactions for the OGE 278, which is now a joint termination annual report, you should pick a date within 30 days of your termination date, and report your assets as of that date. All income from CY 2011 through to that date will need to be reported. Transactions for all of CY 2011 through that date will also need to be reported. I AM TOTALLY CONFUSED. SARAH SPECIFICALLY TOLD US JANUARY 31ST AND THAT WAS THE HOLDINGS DOCUMENT I FORWARDED TO HER LAST WEEK.

Yes, we do need to identify the source of your husband's income—this should have been done on the 278s throughout your prior position. (We don't need to report *amount*, but we need to identify the employer). Under separate cover, I will forward a link to the instructions for the OGE 278. I DIDNT GET A SEPARATE LINK FROM YOU BUT SINCE HE WAS A MEMBER OF CONGRESS, HE ALWAYS FILLED OUT HIS OWN FINANCIAL DISCLOSURE AND THAT COPY WAS ALWAYS PROVIDED ALONG WITH MY COPY. SINCE HE RESIGED, HE HAS BEEN THE PRESIDENT OF WOOLF WEINER ASSOCIATES.

Please feel free to give me a call if you have any questions. Today I can be reached at [REDACTED] I WILL CALL YOU SHORTLY TO BE SURE ALL IS IN ORDER. IF THERE IS ONE FORM WE BOTH NEED TO FILL OUT, HAPPY TO DO THAT.

B6

Thanks again,
Best Regards,

-Marcella

From: Huma Abedin [mailto:Huma@clintonemail.com]

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To: Samuelson, Heather F; Green, Marcella M

Subject: FW: disclosure questions

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this was included in the document sent to sarah but doesnt seem to be incorporated. so checking to be sure you dont need this on there as well.

From: Weiner, Anthony

Sent: Monday, June 04, 2012 11:30 AM

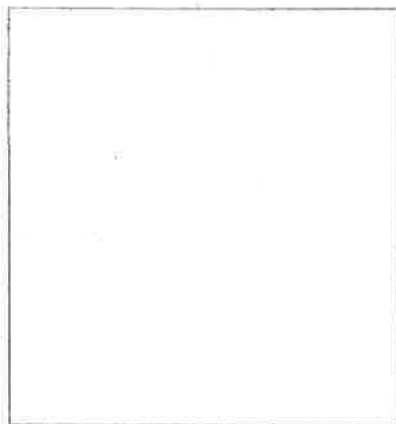
To: Huma Abedin

Subject: disclosure questions

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2. I wasn't asked for all transactions in 2011 that exceeded \$1000.

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Jordan, Angela M

5 U.S.C. app
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Subject: FW:

REVIEW AUTHORITY: Barbara Nielsen,
Senior Reviewer

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Sent: Friday, June 01, 2012 1:46 PM
To: 'Huma Abedin'
Subject: RE:

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B3, B6

Marcella M. Green
Attorney Adviser
Office of the Legal Adviser - L-EFD
202/663-2995

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Sent: Friday, June 01, 2012 1:43 PM
To: Green, Marcella M
Subject: Re:

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Sent: Friday, June 01, 2012 12:52 PM
To: Huma Abedin
Subject:

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Many thanks for your cooperation. If you have any questions whatsoever, please let me know.

Best Regards,
-Marcella

Marcella M. Green
Attorney Adviser
Office of the Legal Adviser - L-BFD
202/663-2995



United States Department of State

Washington, D.C. 20520

OCT 13 2015

Case No. F-2013-08812

Segments: L-0002, S/ES-0002

Sean A. Dunagan
Judicial Watch
425 Third Street, SW Suite 800
Washington, DC 20024

Dear Mr. Dunagan:

I refer to our letter dated September 18, 2015 regarding the release of certain Department of State material under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552.

The review of records retrieved from the Office of the Legal Adviser is complete. We have reviewed three additional responsive records and have determined that two may be released with excisions, and one must be withheld in full. All released material is enclosed.

The search of the Office of the Executive Secretariat is complete. We have reviewed 2 additional responsive records and have determined that both may be released with excisions. All released material is enclosed.

An enclosure explains FOIA exemptions and other grounds for withholding material. Where we have made excisions, the applicable exemptions are marked on each document. The document withheld in full is being withheld under FOIA Exemption 3, 5 U.S.C. §552(b)(3), pursuant to the Ethics in Government Act of 1978, 5 U.S.C. app. §105. All non-exempt material that is reasonably segregable from the exempt material has been released.

Please be advised that this completes our processing of your request. If you have any questions, your attorney may contact Peter Wechsler, Trial Attorney, at (202) 514-2705 or Peter.Wechsler@usdoj.gov.

Sincerely,

Susan C. Wechsler for

John F. Hackett, Director
Office of Information Programs and Services

Enclosures: As stated.

The Freedom of Information Act (5 USC 552)

FOIA Exemptions

- (b)(1) Information specifically authorized by an executive order to be kept secret in the interest of national defense or foreign policy. Executive Order 13526 includes the following classification categories:
- 1.4(a) Military plans, systems, or operations
 - 1.4(b) Foreign government information
 - 1.4(c) Intelligence activities, sources or methods, or cryptology
 - 1.4(d) Foreign relations or foreign activities of the US, including confidential sources
 - 1.4(e) Scientific, technological, or economic matters relating to national security, including defense against transnational terrorism
 - 1.4(f) U.S. Government programs for safeguarding nuclear materials or facilities
 - 1.4(g) Vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to US national security, including defense against transnational terrorism
 - 1.4(h) Weapons of mass destruction
- (b)(2) Related solely to the internal personnel rules and practices of an agency
- (b)(3) Specifically exempted from disclosure by statute (other than 5 USC 552), for example:
- ARMEX Arms Export Control Act, 22 USC 2778(e)
 - CIA Central Intelligence Agency Act of 1949, 50 USC 403(g)
 - EXPORT Export Administration Act of 1979, 50 App. USC 241(c)(1)
 - FSA Foreign Service Act of 1980, 22 USC 4003 & 4004
 - INA Immigration and Nationality Act, 8 USC 1202(f)
 - IRAN Iran Claims Settlement Act, Sec. 505, 50 USC 1701, note
- (b)(4) Trade secrets and confidential commercial or financial information
- (b)(5) Interagency or intra-agency communications forming part of the deliberative process, attorney-client privilege, or attorney work product
- (b)(6) Personal privacy information
- (b)(7) Law enforcement information whose disclosure would:
- (A) interfere with enforcement proceedings
 - (B) deprive a person of a fair trial
 - (C) constitute an unwarranted invasion of personal privacy
 - (D) disclose confidential sources
 - (E) disclose investigation techniques
 - (F) endanger life or physical safety of an individual
- (b)(8) Prepared by or for a government agency regulating or supervising financial institutions
- (b)(9) Geological and geophysical information and data, including maps, concerning wells

Other Grounds for Withholding

- NR Material not responsive to a FOIA request excised with the agreement of the requester

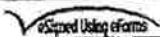
Instructions on How to Complete the DS-1143

REVIEW AUTHORITY: Barbara Nielsen, Senior Department of State

RELEASE IN PART
B6

Reviewer

REQUEST FOR SECURITY CLEARANCE OR OTHER ACTION

SECTION 1: TYPE OF ACTION		
1. Type of Request: <input type="checkbox"/> New Applicant <input checked="" type="checkbox"/> Revalidation <input type="checkbox"/> Reciprocity <input type="checkbox"/> Conversion <input type="checkbox"/> Detainee <input type="checkbox"/> Other		
SECTION 2: CANDIDATE/EMPLOYEE INFORMATION		
2. Applicant/Employee Name (Last, First, Middle) ABEDIN HUMA M		5. Date and Place of Birth Date of Birth (mm-dd-yyyy) _____ City KALAMAZOO State/Country MICHIGAN
3. Social Security Number _____	4. E-mail Address AbedinH@state.gov	
SECTION 3: POSITION INFORMATION		
6. Employing Office/Post Office of the Secretary	7. Job Title of the Applicant Senior Advisor (Expert-SGE)	8. Temporary Hire? <input checked="" type="checkbox"/> Yes From 04-01-2012 To 03-31-2013
9. Type of Hire: Civil Service		
SECTION 4: CURRENT/PREVIOUS NATIONAL SECURITY CLEARANCE		
10. Agency Clearance Currently Or Previously Held At Department of State		11. Office Clearance Previously Held At (Currently or within 2 years) Office of the Secretary
12. Investigative Agency Department of State		13. Date of investigation (mm-dd-yyyy) 02-04-2009
14. Clearance Level: Top Secret (Critical Sensitive)		15. Clearance Grant Date (mm-dd-yyyy) 02-04-2009
SECTION 5: TYPE OF CLEARANCE/CERTIFICATION REQUESTED		
16. Type of Clearance/Certification Requested: National Security Clearance Specify Top Secret (Critical Sensitive)		
17. Special Access Programs: <input type="checkbox"/> SCI (Sensitive Compartmented Information)		18. Suitability: No Objection
SECTION 6: AUTHORIZED REQUESTOR INFORMATION		
19. Authorized Requestor's Name (Last, First, M.I.) Carter Patricia		20. Requestor's Title HR Expert Advisor
21. Office Symbol/Post S/ES-EX	22. Telephone Number 647-8903	23. E-mail of Requestor carterp@state.gov
24. Comments: Ms. Huma Abedin is being converted to a temporary appointment as a Senior Advisor (Expert-SGE) to the Secretary, anticipated effective date April 1, 2012. A revalidation of her top secret version appointment.		
25. Authorized Official's Signature  Carter, Patricia		Date (mm-dd-yyyy) 03-20-2012
SECTION 7: DS/SIPSS DETAILTEE VERIFICATION		
26. Clearance/Certification Request: <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved	27. Comments	
28. DS/SIPSS Approving Official's Signature _____		Date (mm-dd-yyyy) _____

DS-1143

**UNITED STATES HOUSE OF REPRESENTATIVES
ETHICS IN GOVERNMENT ACT**

RELEASE IN PART B6

CALENDAR YEAR 2010 FINANCIAL DISCLOSURE STATEMENT - FORM A

REVIEW
AUTHORITY:
Barbara
Nielsen,
Senior
Reviewer B6

Please provide the following information. Your address and signature **WILL NOT** be made available to the public.

Anthony Weiner
(Print Full Name)

Filer Status: ☒ Member ☐ Officer or Employee

CERTIFICATION — THIS DOCUMENT MUST BE SIGNED BY THE REPORTING INDIVIDUAL AND DATED

The attached Financial Disclosure Statement is required by the Ethics in Government Act of 1978, as amended. The Statement will be available to any requesting person upon written application and will be reviewed by the Committee on Ethics or its designee. Any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file the attached report may be subject to civil penalties and criminal sanctions. See Section 104 of the Ethics in Government Act (5 U.S.C. app. 4 §§ 101-111) and 18 U.S.C. § 1001.

Certification

I CERTIFY that the statements I have made on the attached financial disclosure statement and all attached schedules are true, complete, and correct to the best of my knowledge and belief.

B6

Members must file a signed original and two photocopies thereof. Employees must file a signed original and one photocopy thereof.

*****FOR OFFICIAL USE ONLY — DO NOT WRITE BELOW*****

Certification	Signature of Certifying Individual	Date
It is my opinion, based on the information contained in this Financial Disclosure Statement, that the reporting individual is in compliance with Title I of the Ethics in Government Act (5 U.S.C. app. 4 §§ 101-111).		

UNITED STATES HOUSE OF REPRESENTATIVES				Form A <small>For use by Members, officers, and employees</small>	
CALENDAR YEAR 2010 FINANCIAL DISCLOSURE STATEMENT					
Name: <u>Anthony Weiner</u>				Daytime Telephone: _____	
Filer Status	<input checked="" type="checkbox"/> Member of the U.S. House of Representatives	State: <u>NY</u> District: <u>09</u>	<input type="checkbox"/> Officer or Employee	Employing Office: _____	(Office Use Only)
Report Type	<input type="checkbox"/> Annual (May 15, 2011)	<input type="checkbox"/> Amendment	<input checked="" type="checkbox"/> Termination	Termination Date: <u>6/21/2011</u>	A \$200 penalty shall be assessed against anyone who files more than 30 days late.

PRELIMINARY INFORMATION — ANSWER EACH OF THESE QUESTIONS

<p>I. Did you or your spouse have "earned" income (e.g., salaries or fees) of \$200 or more from any source in the reporting period? If yes, complete and attach Schedule I.</p> <p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>II. Did any individual or organization make a donation to charity in lieu of paying you for a speech, appearance, or article in the reporting period? If yes, complete and attach Schedule II.</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>III. Did you, your spouse, or a dependent child receive "unearned" income of more than \$200 in the reporting period or hold any reportable asset worth more than \$1,000 at the end of the period? If yes, complete and attach Schedule III.</p> <p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>IV. Did you, your spouse, or a dependent child purchase, sell, or exchange any reportable asset in a transaction exceeding \$1,000 during the reporting period? If yes, complete and attach Schedule IV.</p> <p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>V. Did you, your spouse, or a dependent child have any reportable liability (more than \$10,000) during the reporting period? If yes, complete and attach Schedule V.</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	<p>VI. Did you, your spouse, or a dependent child receive any reportable gift in the reporting period (i.e., aggregating more than \$335 and not otherwise exempt)? If yes, complete and attach Schedule VI.</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>VII. Did you, your spouse, or a dependent child receive any reportable travel or reimbursements for travel in the reporting period (worth more than \$335 from one source)? If yes, complete and attach Schedule VII.</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>VIII. Did you hold any reportable positions on or before the date of filing in the current calendar year? If yes, complete and attach Schedule VIII.</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>IX. Did you have any reportable agreement or arrangement with an outside entity? If yes, complete and attach Schedule IX.</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
---	--

Each question in this part must be answered and the appropriate schedule attached for each "Yes" response.

EXCLUSION OF SPOUSE, DEPENDENT, OR TRUST INFORMATION — ANSWER EACH OF THESE QUESTIONS

<p>TRUSTS—Details regarding "Qualified Blind Trusts" approved by the Committee on Ethics and certain other "excepted trusts" need not be disclosed. Have you excluded from this report details of such a trust benefiting you, your spouse, or dependent child?</p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
<p>EXEMPTION—Have you excluded from this report any other assets, "unearned" income, transactions, or liabilities of a spouse or dependent child because they meet all three tests for exemption? Do not answer "yes" unless you have first consulted with the Committee on Ethics.</p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>

SCHEDULE III—ASSETS AND "UNEARNED" INCOME

Name: Anthony Weiner

Page 4 of 7

BLOCK A		BLOCK B											BLOCK C	BLOCK D											BLOCK E	
Asset and/or Income Source		Value of Asset											Type of Income	Amount of Income											Transaction	
Identify (a) each asset held for investment or production of income with a fair market value exceeding \$1,000 at the end of the reporting period, and (b) any other reportable asset or source of income when generated more than \$200 in "unearned" income during the year.		Indicate value of asset at close of reporting year. If you use a valuation method other than fair market value, please specify the method used.											Check all columns that apply. For retirement accounts that do not allow you to choose specific investments or that generate tax-deferred income (such as 401(k) plans or IRAs), you may check the "None" column. Dividends, interest, and capital gains, even if reinvested, must be disclosed as income. Check "None" if the asset generated no income during the reporting period.	For retirement accounts that do not allow you to choose specific investments or that generate tax-deferred income (such as 401(k) plans or IRAs), you may check the "None" column. For all other assets, indicate the category of income by checking the appropriate box below. Dividends, interest, and capital gains, even if reinvested, must be disclosed as income. Check "None" if no income was earned or generated.											Indicate if the asset had purchases (P), sales (S), or exchanges (E) exceeding \$1,000 in reporting year.	
Provide complete names of stocks and mutual funds (do not use ticker symbols).		A	B	C	D	E	F	G	H	I	J	K	L	None	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	If only a portion of an asset is sold, disclose indicate as follows: (S) partially. See below for example.
For all IRAs and other retirement plans (such as 401(k) plans) that are self-directed (i.e., plans in which you have the power, even if not exercised, to select the specific investments), provide the value for each asset held in the account that exceeds the reporting thresholds. For other assets, provide the value for each asset held in the account that exceeds the reporting thresholds. For all other assets, provide the value for each asset held in the account at the end of the reporting period.		\$1 - \$1,000	\$1,001 - \$10,000	\$10,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	\$1,000,001 - \$5,000,000	\$5,000,001 - \$25,000,000	\$25,000,001 - \$50,000,000	Over \$50,000,000	None	None	\$1 - \$500	\$501 - \$1,000	\$1,001 - \$2,500	\$2,501 - \$5,000	\$5,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$1,000,000	\$1,000,001 - \$5,000,000	Over \$5,000,000	None	
For mutual or other real property held for investment, provide a complete address.													None	None	None	None	None	None	None	None	None	None	None	None		
For an ownership interest in a privately-held business that is not publicly traded, state the name of the business, the nature of its business, and its geographic location in Block A.													None	None	None	None	None	None	None	None	None	None	None	None		
Exclude: Your personal residence, including second homes and vacation homes, unless there was rental income during the reporting period; any deposits totaling \$5,000 or less in a personal checking or saving accounts; and any financial interest in, or income derived from, a federal retirement program, including the Thrift Savings Plan.													None	None	None	None	None	None	None	None	None	None	None	None		
If you so choose, you may indicate that an asset or income source is that of your spouse (SP) or dependent child (DC), or is jointly held with your spouse (JTW), in the optional column on the far left.													None	None	None	None	None	None	None	None	None	None	None	None		
For a detailed description of Schedule III requirements, please refer to the instruction booklet.													None	None	None	None	None	None	None	None	None	None	None	None		
SP	DC	JTW												None	None	None	None	None	None	None	None	None	None	None		
None													None	None	None	None	None	None	None	None	None	None	None			
None													None	None	None	None	None	None	None	None	None	None	None			
None													None	None	None	None	None	None	None	None	None	None	None			
None													None	None	None	None	None	None	None	None	None	None	None			
None													None	None	None	None	None	None	None	None	None	None	None			
None													None	None	None	None	None	None	None	None	None	None	None			
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None													None	None	None	None	None	None	None	None	None	None	None			
None													None	None	None	None	None	None	None	None	None	None	None			
None													None	None	None	None	None	None	None	None	None	None	None			
None													None	None	None	None	None	None	None	None	None	None	None			
None													None	None	None	None	None	None	None	None	None	None	None			
None													None	None	None	None	None	None	None	None	None	None	None			
None													None	None	None	None	None	None	None	None	None	None	None			
None													None	None	None											

For additional assets and unearned income, use next page.

SCHEDULE IV—TRANSACTIONS

Name

Anthony Weiser

Page

6 of 2

Report any purchase, sale, or exchange transactions by you, your spouse, or dependent child during the reporting period of any security or real property held for investment that exceeded \$1,000. Include transactions that resulted in a capital loss. Provide a brief description of any exchange transaction. Exclude transactions between you, your spouse or dependent children, or the purchase or sale of your personal residence, unless it generates rental income. If only a portion of an asset is sold, please so indicate (i.e., "partial sale"). See example below.

Capital Gains — If a sales transaction resulted in a capital gain in excess of \$200, check the "capital gains" box and disclose this income on Schedule III.

SP, DC, JT	Asset	Type of Transaction			Check Box if Capital Gain Exceeded \$200	Date (MO/DAY/YR) or Quarterly, Monthly, or Bi-weekly, if applicable	Amount of Transaction										
		PURCHASE	SALE	EXCHANGE			A \$1,001- \$15,000	B \$15,001- \$50,000	C \$50,001- \$100,000	D \$100,001- \$250,000	E \$250,001- \$500,000	F \$500,001- \$1,000,000	G \$1,000,001- \$5,000,000	H \$5,000,001- \$25,000,000	I \$25,000,001- \$50,000,000	J Over \$50,000,000	
SP	Example: Mega Corporation Common Stock (partial sale)		X			10-12-10		X									
	American Express Co.	X				3/12/11	X										
	Doeing Company	X				5/21/11	X										
	3M Company		X		X	9/24/11	X										
	Chrysler Group LLC		PS		X	3/1/11											
	Rowan Companies Inc		PS		X	3/7/2011	X										

This page may be copied if more space is required.

Taylor, Sarah E

From: Huma Abedin [Huma@clintonemail.com]
Sent: Tuesday, June 05, 2012 10:39 AM
To: Taylor, Sarah E
Subject: RE: My husbands holdings

Best copy available

RELEASE IN PART B6

Up until June, his employer was the federal government. He was in congress. Since then, his income has come from his position as president of woolf weiner associates. Did Marcella pass on to you the emails we sent her yesterday? But along with the holdings document you have is everything.

From: Taylor, Sarah E [TaylorSE2@state.gov]
Sent: Tuesday, June 05, 2012 8:07 AM
To: Huma Abedin
Subject: RE: My husbands holdings

REVIEW AUTHORITY:
Barbara Nielsen, Senior
Reviewer

Hi Huma,

I spoke with Marcella yesterday afternoon and she indicated we were waiting for you to provide your spouse's employer and all of his assets. I did receive a listing from you. If the documents have all of your spouse's information, I will add them to your report and move forward.

Sarah E Taylor
Chief, Financial Disclosure Division
Room 5600
1600 P-27A
Washington, DC 20522-0102
Tel: 202-312-3122
Tel: 202-312-3330
Email: TaylorSE2@state.gov

This email is UNCLASSIFIED.

From: Huma Abedin [mailto:Huma@clintonemail.com]
Sent: Monday, June 04, 2012 3:50 PM
To: Taylor, Sarah E
Subject: RE: My husbands holdings



From: Taylor, Sarah E [TaylorSE2@state.gov]
Sent: Monday, June 04, 2012 2:25 PM
To: Huma Abedin
Subject: RE: My husbands holdings



Sarah E Taylor
Chief, Financial Disclosure Division

6/5/2012 10:40 AM

116-0
Rm H-228
612 Street NW
Washington, DC 20522-0102
663-3122
663-3339
Email: TaylorSE2@state.gov

This email is UNCLASSIFIED.

From: Huma Abedin [<mailto:Huma@clintonemail.com>]
Sent: Monday, June 04, 2012 2:14 PM
To: Taylor, Sarah E
Subject: Re: My husbands holdings

after samuelson emailed me friday informing me that marcella was taking over my file and asked me to follow-up with her since the transition was taking place june 3rd. Were you not aware?

From: Taylor, Sarah E [<mailto:TaylorSE2@state.gov>]
Sent: Monday, June 04, 2012 02:04 PM
To: Huma Abedin
Subject: RE: My husbands holdings

and you have been working with Marcella during my absence.

Sarah E Taylor
Senior Financial Disclosure Division
116-0
Rm H-228
612 Street NW
Washington, DC 20522-0102
663-3122
663-3339
Email: TaylorSE2@state.gov

This email is UNCLASSIFIED.

From: Huma Abedin [<mailto:Huma@clintonemail.com>]
Sent: Wednesday, May 30, 2012 1:29 PM
To: Taylor, Sarah E
Subject: My husbands holdings

on your request.
please let me know if there is anything else you need from me
thanks for your patience!

RELEASE IN PART B6

From: Samuelson, Heather F
Sent: Tuesday, June 05, 2012 3:58 PM
To: Green, Marcella M
Subject: FW: disclosure questions

REVIEW AUTHORITY: Barbara Nielsen,
Senior Reviewer

Classification: UNCLASSIFIED
SMARTCategory: Working

From: Taylor, Sarah E
Sent: Tuesday, June 05, 2012 3:56 PM
To: Samuelson, Heather F
Subject: RE: disclosure questions

The clearance was dated for June 1, 2012.

Sarah E. Taylor
Chief, Financial Disclosure Division
L/EFD
SA-1, Rm H-228
2401 E Street NW
Washington, DC 20522-0102
tel: 202 663-3122
Fax: 202 663-3339
email: Taylorse2@state.gov

This email is UNCLASSIFIED.

From: Samuelson, Heather F
Sent: Tuesday, June 05, 2012 3:54 PM
To: Taylor, Sarah E
Cc: Green, Marcella M
Subject: RE: disclosure questions

The plan was for her to be terminated as of June 2, and then become a SGE effective June 3. However, because she has not been cleared by L yet for the SGE appointment, that transition has not occurred yet.

Are you able to clear her for the SGE appointment now while she continues to work on the termination report?

From: Taylor, Sarah E
Sent: Tuesday, June 05, 2012 3:46 PM
To: Samuelson, Heather F
Cc: Green, Marcella M
Subject: RE: disclosure questions

Her termination report is incomplete, Schedule B, Part I and II were left blank. Schedule C, Part II was left blank. I hope she provided all of her spouse's assets. Marcella I believe told him, either Huma or her husband called her yesterday indicating there were more assets. The documents I have do not have the income information, only the value

information. What was her date of termination? She needs to be aware her termination report will be going up on a DoS website for the public to view and it must be accurate.

Sarah E. Taylor
Chief, Financial Disclosure Division
L/EFD
SA-1, Rm H-228
2401 E Street NW
Washington, DC 20522-0102
tel: 202 663-3122
Fax: 202 663-3339
email: Taylorse2@state.gov

This email is UNCLASSIFIED.

From: Samuelson, Heather F
Sent: Tuesday, June 05, 2012 3:09 PM
To: Green, Marcella M; Taylor, Sarah E
Subject: RE: disclosure questions

Got it - what are you waiting on at this point? Would it be helpful for me to follow up with her as well?

From: Green, Marcella M
Sent: Tuesday, June 05, 2012 2:59 PM
To: Samuelson, Heather F; Taylor, Sarah E
Subject: Re: disclosure questions

Hi Heather- I believe the ball is still with Huma, unless Sarah has received the info.

From: Samuelson, Heather F
Sent: Tuesday, June 05, 2012 02:52 PM
To: Taylor, Sarah E; Green, Marcella M
Subject: RE: disclosure questions

Sarah/Marcella - wanted to check in on this. Can you tell me where things stand? Are we able to clear her today for the SGE role with the information below? Many thanks.

From: Huma Abedin [mailto:Huma@clintonemail.com]
Sent: Tuesday, June 05, 2012 10:51 AM
To: Samuelson, Heather F
Subject: FW: disclosure questions

From: Taylor, Sarah E [Taylorse2@state.gov]
Sent: Tuesday, June 05, 2012 10:46 AM
To: Huma Abedin
Subject: RE: disclosure questions

Thank you. Will work on this later today.

Sarah E. Taylor
Chief, Financial Disclosure Division

L/EFD
SA-1, Rm H-228
2401 E Street NW
Washington, DC 20522-0102
tel: 202 663-3122
Fax: 202 663-3339
email: Taylorse2@state.gov

This email is UNCLASSIFIED.

From: Huma Abedin [mailto:Huma@clintonemail.com]
Sent: Tuesday, June 05, 2012 10:41 AM
To: Green, Marcella M; Samuelson, Heather F
Cc: Taylor, Sarah E; Martin, Janice N
Subject: RE: disclosure questions

answers in CAPS below

From: Green, Marcella M [GreenMM@state.gov]
Sent: Monday, June 04, 2012 1:31 PM
To: Huma Abedin; Samuelson, Heather F
Cc: Taylor, Sarah E; Martin, Janice N
Subject: RE: disclosure questions

Thanks Huma—

I did not see this on the OGE 450, but we can amend that report.

For the OGE 450 (New Entrant report), did you hold more than \$1,000 in each of these holdings as of the day you signed the report? Please let me know—we will need to amend. Also, do you anticipate in the new position participating in matters involving any of these entities? NO, MY NEW POSITION IS IDENTICAL TO MY OLD POSITION.

As to transactions for the OGE 278, which is now a joint termination annual report, you should pick a date within 30 days of your termination date, and report your assets as of that date. All income from CY 2011 through to that date will need to be reported. Transactions for all of CY 2011 through that date will also need to be reported. I AM TOTALLY CONFUSED. SARAH SPECIFICALLY TOLD US JANUARY 31ST AND THAT WAS THE HOLDINGS DOCUMENT I FORWARDED TO HER LAST WEEK.

Yes, we do need to identify the source of your husband's income—this should have been done on the 278s throughout your prior position. (We don't need to report *amount*, but we need to identify the employer). Under separate cover, I will forward a link to the instructions for the OGE 278. I DIDNT GET A SEPARATE LINK FROM YOU BUT SINCE HE WAS A MEMBER OF CONGRESS, HE ALWAYS FILLED OUT HIS OWN FINANCIAL DISCLOSURE AND THAT COPY WAS ALWAYS PROVIDED ALONG WITH MY COPY. SINCE HE RESIGED, HE HAS BEEN THE PRESIDENT OF WOOLF WEINER ASSOCIATES.

Please feel free to give me a call if you have any questions. Today I can be reached at I WILL CALL YOU SHORTLY TO BE SURE ALL IS IN ORDER. IF THERE IS ONE FORM WE BOTH NEED TO FILL OUT, HAPPY TO DO THAT.

Thanks again,
Best Regards,
-Marcella

From: Huma Abedin [mailto:Huma@clintonemail.com]
Sent: Monday, June 04, 2012 11:41 AM
To: Samuelson, Heather F; Green, Marcella M
Subject: FW: disclosure questions

my husband just reviewed the form and provided the following.
this was included in the document sent to sarah but doesnt seem to be incorporated. so checking to be sure you dont need this on there as well.

From: Weiner, Anthony [redacted]
Sent: Monday, June 04, 2012 11:30 AM
To: Huma Abedin
Subject: disclosure questions

B6

1. I see this is for calendar year 2011. I was asked for the period ending 1/31/12. should I provide 12/31 instead?

[redacted]

B6

2. I wasn't asked for all transactions in 2011 that exceeded \$1000.

[redacted]

B6

B6

[redacted]

3. is there any obligation to report MY income or sources?

D



United States Department of State

Washington, D.C. 20520

NOV 12 2015

Case No. F-2013-08812

Sean A. Dunagan
Judicial Watch
425 Third Street, SW Suite 800
Washington, DC 20024

Dear Mr. Dunagan:

I refer to our letter dated October 13, 2015 regarding the release of certain Department of State material under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552.

The Department re-reviewed material that was initially released in part in this case and identified certain additional information that may be released as a matter of discretion in documents C05858627, C05858640, and C05858654. These documents are enclosed.

An enclosure explains FOIA exemptions and other grounds for withholding material. Where we have made excisions, the applicable exemptions are marked on the document. All non-exempt material that is reasonably segregable from the exempt material has been released.

Please be advised that this completes our processing of your request. If you have any questions, your attorney may contact Peter Wechsler, Trial Attorney, at (202) 514-2705 or Peter.Wechsler@usdoj.gov.

Sincerely,

Swad C. Wechsler for

John F. Hackett, Director
Office of Information Programs and Services

Enclosures: As stated.

The Freedom of Information Act (5 USC 552)

FOIA Exemptions

- (b)(1) Withholding specifically authorized under an Executive Order in the interest of national defense or foreign policy, and properly classified. E.O. 12958, as amended, includes the following classification categories:

- 1.4(a) Military plans, systems, or operations
- 1.4(b) Foreign government information
- 1.4(c) Intelligence activities, sources or methods, or cryptology
- 1.4(d) Foreign relations or foreign activities of the US, including confidential sources
- 1.4(e) Scientific, technological, or economic matters relating to national security, including defense against transnational terrorism
- 1.4(f) U.S. Government programs for safeguarding nuclear materials or facilities
- 1.4(g) Vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to US national security, including defense against transnational terrorism
- 1.4(h) Information on weapons of mass destruction

- (b)(2) Related solely to the internal personnel rules and practices of an agency

- (b)(3) Specifically exempted from disclosure by statute (other than 5 USC 552), for example:

ARMEX	Arms Export Control Act, 22 USC 2778(e)
CIA	Central Intelligence Agency Act of 1949, 50 USC 403(g)
EXPORT	Export Administration Act of 1979, 50 App. USC 2411(c)(1)
FSA	Foreign Service Act of 1980, 22 USC 4003 & 4004
INA	Immigration and Nationality Act, 8 USC 1202(f)
IRAN	Iran Claims Settlement Act, Sec 505, 50 USC 1701, note

- (b)(4) Privileged/confidential trade secrets, commercial or financial information from a person

- (b)(5) Interagency or intra-agency communications forming part of the deliberative process, attorney-client privilege, or attorney work product

- (b)(6) Information that would constitute a clearly unwarranted invasion of personal privacy

- (b)(7) Information compiled for law enforcement purposes that would:

- (A) interfere with enforcement proceedings
- (B) deprive a person of a fair trial
- (C) constitute an unwarranted invasion of personal privacy
- (D) disclose confidential sources
- (E) disclose investigation techniques
- (F) endanger life or physical safety of an individual

- (b)(8) Prepared by or for a government agency regulating or supervising financial institutions

- (b)(9) Geological and geophysical information and data, including maps, concerning wells

Other Grounds for Withholding

- NR Material not responsive to a FOIA request, excised with the agreement of the requester

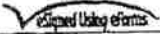
Instructions on How to Complete the DS-1143

REVIEW AUTHORITY: Barbara Nielsen, Senior Department of State

RELEASE IN PART
B6

Reviewer

REQUEST FOR SECURITY CLEARANCE OR OTHER ACTION

SECTION 1: TYPE OF ACTION		
1. Type of Request: <input type="checkbox"/> New Applicant <input checked="" type="checkbox"/> Revalidation <input type="checkbox"/> Reciprocity <input type="checkbox"/> Conversion <input type="checkbox"/> Detailee <input type="checkbox"/> Other		
SECTION 2: CANDIDATE/EMPLOYEE INFORMATION		
2. Applicant/Employee Name (Last, First, Middle) ABEDIN HUMA M		5. Date and Place of Birth Date of Birth (mm-dd-yyyy) _____ City KALAMAZOO State/Country MICHIGAN
3. Social Security Number _____	4. E-mail Address AbedinH@state.gov	
SECTION 3: POSITION INFORMATION		
6. Employing Office/Post Office of the Secretary	7. Job Title of the Applicant Senior Advisor (Expert-SGE)	8. Temporary Hire? <input checked="" type="checkbox"/> Yes From 04-01-2012 To 03-31-2013
9. Type of Hire: Civil Service		
SECTION 4: CURRENT/PREVIOUS NATIONAL SECURITY CLEARANCE		
10. Agency Clearance Currently Or Previously Held At Department of State		11. Office Clearance Previously Held At (Currently or within 2 years) Office of the Secretary
12. Investigative Agency Department of State		13. Date of investigation (mm-dd-yyyy) 02-04-2009
14. Clearance Level: Top Secret (Critical Sensitive)		15. Clearance Grant Date (mm-dd-yyyy) 02-04-2009
SECTION 5: TYPE OF CLEARANCE/CERTIFICATION REQUESTED		
16. Type of Clearance/Certification Requested: National Security Clearance Specify Top Secret (Critical Sensitive)		
17. Special Access Programs: <input type="checkbox"/> SCI (Sensitive Compartmented Information)		18. Suitability: No Objection
SECTION 6: AUTHORIZED REQUESTOR INFORMATION		
19. Authorized Requestor's Name (Last, First, M.I.) Carter Patricia		20. Requestor's Title HR Expert Advisor
21. Office Symbol/Post S/ES-EX	22. Telephone Number 647-8903	23. E-mail of Requestor carterp@state.gov
24. Comments: Ms. Huma Abedin is being converted to a temporary appointment as a Senior Advisor (Expert-SGE) to the Secretary, anticipated effective date April 1, 2012. A revalidation of her top secret clearance is requested for this conversion appointment.		
25. Authorized Official's Signature  Carter, Pa		Date (mm-dd-yyyy) 03-20-2012
SECTION 7: DS/SI/PSS DETAILEE VERIFICATION		
26. Clearance/Certification Request: <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved	27. Comments	
28. DS/SI/PSS Approving Official's Signature _____ Date (mm-dd-yyyy) _____		

DS-1143

RELEASE IN PART
B6REVIEW AUTHORITY: Barbara Nielsen, Senior
Reviewer

POSITION DESCRIPTION (Please Read Instructions on the Back)

2. Reason for Submission <input type="checkbox"/> Redescription <input checked="" type="checkbox"/> New Reestablishment <input type="checkbox"/> Other		3. Service <input checked="" type="checkbox"/> Hdqrs. <input type="checkbox"/> Field		4. Employing Office Location S		5. Duty Station WASHINGTON, D.C.		1. Agency Position No. E-10562	
Explanation (Show any positions replaced)		7. Fair Labor Standards Act <input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Nonexempt		9. Financial Statements Required <input type="checkbox"/> Executive Personnel <input checked="" type="checkbox"/> Employment and Financial Disclosure		8. OPM Certification No.		9. Subject to IA Action <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
10. Position Status <input type="checkbox"/> Competitive <input checked="" type="checkbox"/> Excepted (Specify in remarks) SES (Gen.) <input type="checkbox"/> SES (CRI)		11. Position is: <input type="checkbox"/> Supervisory <input type="checkbox"/> Managerial <input checked="" type="checkbox"/> Neither		12. Sensitivity <input type="checkbox"/> 1-Non-Sensitive <input checked="" type="checkbox"/> 2-Moderately Sensitive <input type="checkbox"/> 3-Critical Sensitive <input type="checkbox"/> 4-Special Sensitive		13. Competitive Level Code		14. Agency Use	
15. Classified/Graded by		Official Title of Position		Pay Plan		Occupational Code		Grade	
a. U.S. Office of Personnel Management									
b. Department, Agency or Establishment		Senior Advisor		ED		130		15	
c. Second Level Review									
d. First Level Review									
e. Recommended by Supervisor or Initiating Office		SENIOR ADVISOR (Expert-SGE)		EF		130		15	
								pc	
16. Organizational Title of Position (if different from official title)		010101		17. Name of Employee (if vacant, specify)		HUMA M. ABEDIN			

18. Department, Agency, or Establishment DEPARTMENT OF STATE		c. Third Subdivision	
a. First Subdivision OFFICE OF THE SECRETARY		d. Fourth Subdivision	
b. Second Subdivision		e. Fifth Subdivision	

19. Employee Review—This is an accurate description of the major duties and responsibilities of my position.		Signature of Employee (optional)		Date (mm-dd-yyyy)	
--	--	----------------------------------	--	-------------------	--

20. Supervisory Certification. I certify that this is an accurate statement of the major duties and responsibilities of this position and its organizational relationships, and that the position is necessary to carry out Government functions for which I am responsible. This certification is made with the knowledge that this information is to be used for salary purposes relating to appointment and payment of public funds, and that false or misleading statements may constitute violations of such statutes or their implementing regulations.

a. Typed Name and Title of Immediate Supervisor HILLARY RODHAM CLINTON SECRETARY OF STATE		b. Typed Name and Title of Higher-Level Supervisor or Manager (optional)	
Signature		Signature	
Date (mm-dd-yyyy) 3/23/12		Date (mm-dd-yyyy)	

21. Classification/Job Grading Certification. I certify that this position has been classified/graded as required by Title 5, U.S. Code, in conformance with standards published by the U.S. Office of Personnel Management or, if no published standards apply directly, consistently with the most applicable published standards.

Types Name and Title of Official Taking Action PAUL GILMORE CHIEF, HR SHARED SERVICES		22. Position Classification Standards Used in Classifying Grading Position GS-0130 Series Definition Policy Analysis Grade Evaluation Guide TS-SR MARCH 1981	
Signature		Information for Employees. The standards, and information on their application, are available in the personnel office. The classification of the position may be reviewed and corrected by the agency or the U.S. Office of Personnel Management. Information on classification/job grading appeals, and complaints on exemption from FLSA, is available from the personnel office or the U.S. Office of Personnel Management.	
Date (mm-dd-yyyy) 4/9/12			

23. Position Review		Initials		Date (mm-dd-yyyy)		Initials		Date (mm-dd-yyyy)		Initials		Date (mm-dd-yyyy)		Initials		Date (mm-dd-yyyy)	
a. Employee (optional)																	
b. Supervisor																	
c. Classifier																	

24. Remarks
This is a Temporary Excepted Service position which does not confer competitive status. The incumbent serves as a Senior Advisor, Expert-Special Government Employee (SGE), at the pleasure of the Secretary and may be terminated at any time.

25. Description of Major Duties and Responsibilities (See Attached)		OF 8 (Rev. 1-85)	
NSN 7540-00-834-4285		U.S. Office of Personnel Management	
Previous Edition Usable		FPM Chapter 295	
5008-106			

B6

REVIEW AUTHORITY: Barbara Nielsen, Senior				RELEASE IN PART B6			
Reviewer POSITION DESCRIPTION (Please Read Instructions on the Back)				1. Agency Position No. D-10006			
2. Reason for Submission <input type="checkbox"/> Redescription <input checked="" type="checkbox"/> New <input checked="" type="checkbox"/> Hdqrs. <input type="checkbox"/> Field <input type="checkbox"/> Reestablishment <input type="checkbox"/> Other Explanation (Show any positions replaced)		3. Service <input checked="" type="checkbox"/> Hdqrs. <input type="checkbox"/> Field		4. Employing Office Location S		5. Duty Station WASHINGTON, D.C.	
7. Fair Labor Standards Act <input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Nonexempt		8. Financial Statements Required <input type="checkbox"/> Executive Personnel Financial Disclosure <input checked="" type="checkbox"/> Employment and Financial Interests		6. OPM Certification No.		6. Subject to IA Action <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
10. Position Status <input type="checkbox"/> Competitive <input checked="" type="checkbox"/> Excepted (Specify in remarks) SES (Gen.) <input type="checkbox"/> SES (CR)		11. Position is: <input type="checkbox"/> Supervisory <input type="checkbox"/> Managerial <input checked="" type="checkbox"/> Neither		12. Sensitivity <input type="checkbox"/> 1-Non-Sensitive <input checked="" type="checkbox"/> 3-Critical Sensitive <input type="checkbox"/> 2-Noncritical Sensitive <input type="checkbox"/> 4-Special Sensitive		13. Competitive Level Code	
15. Classified/Graded by		Official Title of Position		Pay Plan		Occupational Code	
a. U.S. Office of Personnel Management							
b. Department, Agency or Establishment		Senior Advisor		ED		130 15 PUE 4/4/12	
c. Second Level Review							
d. First Level Review							
e. Recommended by Supervisor or Initiating Office		SENIOR ADVISOR (Expert-SGE)		EF		130 15 pc 03-20-2012	
18. Organizational Title of Position (if different from official title) 010101				17. Name of Employee (if vacant, specify) HUMA M. ABEDIN			
18. Department, Agency, or Establishment DEPARTMENT OF STATE				c. Third Subdivision			
a. First Subdivision OFFICE OF THE SECRETARY				d. Fourth Subdivision			
b. Second Subdivision				a. Fifth Subdivision			
18. Employee Review: This is an accurate description of the major duties and responsibilities of my position.				Signature of Employee (optional) Date (mm-dd-yyyy)			
20. Supervisory Certification. I certify that this is an accurate statement of the major duties and responsibilities of this position and its organizational relationships, and that the position is necessary to carry out Government functions for which I am responsible. This certification is made with the knowledge that this information is to be used for salary purposes relating to appointment and payment of public funds, and that false or misleading statements may constitute violations of such statutes or their implementing regulations.							
a. Typed Name and Title of Immediate Supervisor HILLARY RODHAM CLINTON SECRETARY OF STATE				b. Typed Name and Title of Higher-Level Supervisor or Manager (optional)			
Signature  Date (mm-dd-yyyy) 3/23/12				Signature Date (mm-dd-yyyy)			
21. Classification/Job Grading Certification. I certify that this position has been classified/graded as required by Title 5, U.S. Code, in conformance with standards published by the U.S. Office of Personnel Management or, if no published standards apply directly, consistently with the most applicable published standards.				22. Position Classification Standards Used in Classifying Grading Position GS-0130 Series Definition Policy Analysis Grade Evaluation Guide TS-S2 MARCH 1981			
Typed Name and Title of Official Taking Action PAUL GILMORE CHIEF, HR SHARED SERVICES				Information for Employees. The standards, and information on their application, are available in the personnel office. The classification of the position may be reviewed and corrected by the agency or the U.S. Office of Personnel Management. Information on classification/job grading appeals, and complaints on exemption from FLSA, is available from the personnel office or the U.S. Office of Personnel Management.			
Signature Date (mm-dd-yyyy) 4/4/12							
23. Position Review		Initials		Date (mm-dd-yyyy)		Initials	
a. Employee (optional)							
b. Supervisor							
c. Classifier							
24. Remarks This is a Temporary Excepted Service position which does not confer competitive status. The incumbent serves as a Senior Advisor, Expert-Special Government Employee (SGE), at the pleasure of the Secretary and may be terminated at any time.							
25. Description of Major Duties and Responsibilities (See Attached)							

NSN 7540-00-834-4295

Previous Edition Usable

5008-108

OF 8 (Rev. 1-85)
U.S. Office of Personnel Management
FPM Chapter 295

B6



United States Department of State

Washington, D.C. 20520

NOV 13 2015

Case No. F-2013-08812

Sean A. Dunagan
Judicial Watch
425 Third Street, SW Suite 800
Washington, DC 20024

Dear Mr. Dunagan:

I refer to our letter dated November 12, 2015 regarding the release of certain Department of State material under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552.

The Department has recently become aware of your application requesting certain documents under Section 105(b)(2) of the Ethics in Government Act of 1978. We have thus re-reviewed document C05858660, which was initially withheld in full, and determined that it may now be released in part as a matter of discretion. In the course of making this decision, the Department has also retrieved two additional documents from the Office of the Legal Adviser – documents C05904362 and C05904363. These are being released in full in the form in which they were retrieved from the Office of the Legal Adviser's records systems. These documents are enclosed.

An enclosure explains FOIA exemptions and other grounds for withholding material. Where we have made excisions, the applicable exemptions are marked on the document. All non-exempt material that is reasonably segregable from the exempt material has been released.

Please be advised that this completes our processing of your request. If you have any questions, your attorney may contact Peter Wechsler, Trial Attorney, at (202) 514-2705 or Peter.Wechsler@usdoj.gov.

Sincerely,

Swal C. Wechsler for

John F. Hackett, Director
Office of Information Programs and Services

Enclosures: As stated.

The Freedom of Information Act (5 USC 552)

FOIA Exemptions

- (b)(1) Withholding specifically authorized under an Executive Order in the interest of national defense or foreign policy, and properly classified. E.O. 12958, as amended, includes the following classification categories:
- 1.4(a) Military plans, systems, or operations
 - 1.4(b) Foreign government information
 - 1.4(c) Intelligence activities, sources or methods, or cryptology
 - 1.4(d) Foreign relations or foreign activities of the US, including confidential sources
 - 1.4(e) Scientific, technological, or economic matters relating to national security, including defense against transnational terrorism
 - 1.4(f) U.S. Government programs for safeguarding nuclear materials or facilities
 - 1.4(g) Vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to US national security, including defense against transnational terrorism
 - 1.4(h) Information on weapons of mass destruction
- (b)(2) Related solely to the internal personnel rules and practices of an agency
- (b)(3) Specifically exempted from disclosure by statute (other than 5 USC 552), for example:
- | | |
|--------|---|
| ARMEX | Arms Export Control Act, 22 USC 2778(e) |
| CIA | Central Intelligence Agency Act of 1949, 50 USC 403(g) |
| EXPORT | Export Administration Act of 1979, 50 App. USC 2411(c)(1) |
| FSA | Foreign Service Act of 1980, 22 USC 4003 & 4004 |
| INA | Immigration and Nationality Act, 8 USC 1202(f) |
| IRAN | Iran Claims Settlement Act, Sec 505, 50 USC 1701, note |
- (b)(4) Privileged/confidential trade secrets, commercial or financial information from a person
- (b)(5) Interagency or intra-agency communications forming part of the deliberative process, attorney-client privilege, or attorney work product
- (b)(6) Information that would constitute a clearly unwarranted invasion of personal privacy
- (b)(7) Information compiled for law enforcement purposes that would:
- (A) interfere with enforcement proceedings
 - (B) deprive a person of a fair trial
 - (C) constitute an unwarranted invasion of personal privacy
 - (D) disclose confidential sources
 - (E) disclose investigation techniques
 - (F) endanger life or physical safety of an individual
- (b)(8) Prepared by or for a government agency regulating or supervising financial institutions
- (b)(9) Geological and geophysical information and data, including maps, concerning wells

Other Grounds for Withholding

- NR Material not responsive to a FOIA request, excised with the agreement of the requester

RELEASE IN
PART B6OGE Form 278 (Rev. 09/28/01)
5 C.F.R. Part 2634
U.S. Office of Government Ethics

Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT

Form Approved
GSA FPMR, 32 CFR 1.10311

Date of Appointment, Election, or Nomination (Month, Day, Year)	Reporting Status (Check appropriate boxes)	Incumbent <input checked="" type="checkbox"/>	Calendar Year Covered by Report 2011	New Entrant, Nominee, or Candidate <input type="checkbox"/>	Termination Filer <input type="checkbox"/>	Termination Date (if Applicable) (Month, Day, Year)	Fee for Late Filing Any individual who is required to file this report and does so more than 30 days after the date the report is required to be filed, or, if an extension is granted, more than 30 days after the last day of the filing extension period, shall be subject to a \$200 fee.
Reporting Individual's Name	Last Name ABEDIN		First Name and Middle Initial HUMA M				
Position for Which Filing	Title of Position DEPUTY CHIEF OF STAFF		Department or Agency (if Applicable) STATE				
Location of Present Office (for forwarding address)	Address (Number, Street, City, State, and ZIP Code) 2201 C STREET, NW, WDC 20520				Telephone No. (Include Area Code) 202-647-5706		
Position(s) Held with the Federal Government During the Preceding 12 Months (if Not Same as Above)	Title of Position(s) and Date(s) Held DEPUTY CHIEF OF STAFF JANUARY 2009 - PRESENT						
Presidential Nominee Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination Not Applicable		Do You Intend to Create a Qualified Diversified Trust? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
Certification	Signature of Reporting Individual				Date (Month, Day, Year) 4/3/12		
Other Review (if desired by agency)	Signature of Reviewing Official T. Mashingi Deputy Executive Secretary S/ES-EX				Date (Month, Day, Year) 5/4/2012		
Agency Ethics Official's Opinion	Signature of Designated Agency Ethics Official/Reviewer U						
On the basis of information contained in this report, I conclude that the filer is in compliance with applicable law and regulations (subject to any comments on the back below)							
Office of Government Ethics Use Only	Signature REVIEW AUTHORITY: Barbara Nielsen, Senior Reviewer				Date (Month, Day, Year)		
Comments of Reviewing Officials (if additional space is required, use the reverse side of this sheet)							
(Check box if filing extension granted & indicate number of days _____) <input type="checkbox"/>							
(Check box if comments are contained on the reverse side) <input type="checkbox"/>							
Agency Use Only							
OGE Use Only							

Supersedes SF 278 Instructions

B6

B6

1042 Form 278 (Rev. 09/2010)
 5 C.F.R. Part 2434
 U.S. Office of Government Ethics

Reporting Individual's Name Huma Abedin		SCHEDULE A										Page Number of																					
Assets and Income		Valuation of Assets at close of reporting period										Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.																					
BLOCK A		BLOCK B										BLOCK C																					
For you, your spouse, and dependent children, report each asset held for investment or the production of income which had a fair market value exceeding \$1,000 at the close of the reporting period, or which generated more than \$200 in income during the reporting period, together with such income. For yourself, also report the source and actual amount of earned income exceeding \$200 (other than from the U.S. Government). For your spouse, report the source but not the amount of earned income of more than \$1,000 (except report the actual amount of any honoraria over \$200 of your spouse). None <input type="checkbox"/>		None (or less than \$1,001)	\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$5,000,000	\$5,000,001 - \$25,000,000	\$25,000,001 - \$50,000,000	Over \$50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Dividends	Rent and Royalties	Interest	Capital Gains	None (or less than \$201)	\$201 - \$1,000	\$1,001 - \$2,500	\$2,501 - \$5,000	\$5,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$1,000,000	Over \$1,000,000*	Over \$1,000,000	Over \$5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
Examples	Central Airlines Laminum																																
	Doc Jones & Smith, Hometown, State																																
	Kempstone Equity Fund																																
	DKA Heartland 500 Index Fund																																
1	American Express	X															X				X												
2	Pheasant Run Condo Pittsford, MI		X														X				X												
3	JP Morgan Savings account					X													X		X												
4																																	
5																																	
6																																	

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

UNCLASSIFIED U.S. Department of State Case No. F-2013-08812 Doc No. C05856660 Date: 11/13/2015

OGE Form 278 (Rev. 09/2010)
5 C.F.R. Part 2634
U.S. Office of Government Ethics

Do not complete Schedule B if you are a new entrant, nominee, or Vice Presidential or Presidential Candidate

Reporting Individual's Name

Huma Abedin

SCHEDULE B

Page Number
of

Part I: Transactions

Report any purchase, sale, or exchange by you, your spouse, or dependent children during the reporting period of any real property, stocks, bonds, commodity futures, and other securities when the amount of the transaction exceeded \$1,000. Include transactions that resulted in a loss.

Do not report a transaction involving property used solely as your personal residence, or a transaction solely between you, your spouse, or dependent child. Check the "Certificate of divestiture" block to indicate sales made pursuant to a certificate of divestiture from OGE.

None ☐

	Identification of Assets	Transaction Type (d)			Date (Mo., Day, Yr.)	Amount of Transaction (x)										
		Purchase	Sale	Exchange		\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$5,000,000	\$5,000,001 - \$25,000,000	\$25,000,001 - \$50,000,000	Over \$50,000,000
1	Example: Central Airlines Common	x			2/1/99			x								
2																
3																
4																
5																

*This category applies only if the underlying asset is solely that of the filer's spouse or dependent children. If the underlying asset is either held by the filer or jointly held by the filer with the spouse or dependent children, use the other higher categories of value, as appropriate.

Part II: Gifts, Reimbursements, and Travel Expenses

For you, your spouse and dependent children, report the source, a brief description, and the value of: (1) gifts (such as tangible items, transportation, lodging, food, or entertainment) received from one source totaling more than \$335 and (2) travel-related cash reimbursements received from one source totaling more than \$335. For conflicts analysis, it is helpful to indicate a basis for receipt, such as personal friend, agency approval under 5 U.S.C. § 4111 or other statutory authority, etc. For travel-related gifts and reimbursements, include travel itinerary, dates, and the nature of expenses provided. Exclude anything given to you by

the U.S. Government; given to your agency in connection with official travel; received from relatives; received by your spouse or dependent child totally independent of their relationship to you; or provided as personal hospitality at the donor's residence. Also, for purposes of aggregating gifts to determine the total value from one source, exclude items worth \$134 or less. See instructions for other exclusions.

None ☐

	Source (Name and Address)		Brief Description	Value
	Examples			
1	Not Assoc. of Rock Collectors, NY, NY		Airline ticket, hotel room & meals incident to national conference 6/15/99 (personal activity unrelated to duty)	\$5100
2	Frank Jones, San Francisco, CA		Leather briefcase (personal friend)	\$330
3				
4				
5				

(X)GE Form 278 (Rev. 09/2010)
5 C.F.R. Part 2634
U.S. Office of Government Ethics

Do not complete Schedule B if you are a new entrant, nominee, or Vice Presidential or Presidential Candidate

Reporting Individual's Name <i>Aluma Abedin</i>		SCHEDULE B continued (Use only if needed)				Page Number of											
Part I: Transactions																	
Identification of Assets	Transaction Type (a)			Date (Mo., Day, Yr.)	Amount of Transaction (a)												
	Purchase	Sale	Exchange		\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$5,000,000	\$5,000,001 - \$25,000,000	\$25,000,001 - \$50,000,000	Over \$50,000,000	Certificate of Investment	
1																	
2																	
3																	
4																	
5																	
6																	
7																	
8																	
9																	
10																	
11																	
12																	
13																	
14																	
15																	
16																	

*This category applies only if the underlying asset is solely that of the filer's spouse or dependent children. If the underlying asset is either held by the filer or jointly held by the filer with the spouse or dependent children, use the other higher categories of value, as appropriate.

OMB Form 278 (Rev. 09/2010)
5 C.F.R. Part 2634
U.S. Office of Government Ethics

Reporting Individual's Name Huma Abedin		SCHEDULE C					Page Number of	
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Part I: Liabilities

Report liabilities over \$10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. Exclude

a mortgage on your personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances; and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.

None ☒

Creditors (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	Category of Amount or Value (x)														
					\$10,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$5,000,000	\$5,000,001 - \$25,000,000	\$25,000,001 - \$50,000,000	Over \$50,000,000				
Examples First Marine Bank, Washington, DC John Jones	Mortgage on rental property, Delaware	1991	6%	25 yrs.															
	Installment note	1999	10%	on demand				x											
1																			
2																			
3																			
4																			
5																			

*This category applies only if the liability is solely that of the filer's spouse or dependent children. If the liability is that of the filer or a joint liability of the filer with the spouse or dependent children, mark the other higher categories, as appropriate.

Part II: Agreements or Arrangements

Report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves

of absence; and (4) future employment. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

None ☐

Status and Terms of any Agreement or Arrangement		Parties	Date
Example	Pursuant to partnership agreement, will receive lump sum payment of capital account & partnership share calculated on service performed through 1/00.	Doc Jones & Smith, Hometown, State	1/05
1			
2			
3			
4			
5			
6			

CSGE Form 278 (Rev. 09/2010)
5 C.F.R. Part 2634
U.S. Office of Government Ethics

Reporting Individual's Name Huma Abedin		SCHEDULE D			Page Number of
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Part I: Positions Held Outside U.S. Government

Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

None ☒

Examples	Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
	Not Ason, of Rock Collectors, NY, NY	Non-profit education	President	6/92	Present
	Doe Jones & Smith, Hometown, State	Law firm	Partner	7/85	1/00
1					
2					
3					
4					
5					
6					

Part II: Compensation in Excess of \$5,000 Paid by One Source

Report sources of more than \$5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes the names of clients and customers of any corporation, firm, partnership, or other business enterprise, or any other non-profit organization when you directly provided the services generating a fee or payment of more than \$5,000. You need not report the U.S. Government as a source.

None ☐

Do not complete this part if you are an Incumbent, Termination Filer, or Vice Presidential or Presidential Candidate.

Examples	Source (Name and Address)	Brief Description of Duties
	Doe Jones & Smith, Hometown, State	Legal services
	Keizu University (client of Doe Jones & Smith), Moneysmen, State	Legal services in connection with university construction
1		
2		
3		
4		
5		
6		

OGE Form 278 (Rev. 09/2010)
5 C.F.R. Part 2634
U.S. Office of Government Ethics

Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT

Form Approved
OAR No. 3200 - 10001

Date of Appointment, Candidacy, Election, or Nomination (Month, Day, Year)	Reporting Status (Check Appropriate Boxes)	Incumbent <input checked="" type="checkbox"/>	Calendar Year Covered by Report	New Entrant, Nominee, or Candidate <input type="checkbox"/>	Termination Filer <input type="checkbox"/>	Termination Date (If Applicable) (Month, Day, Year)
	Last Name	First Name and Middle Initial				
Reporting Individual's Name	ABEDIN		HUMA M			
Position for Which Filing	Title of Position		Department or Agency (If Applicable)			
	DEPUTY CHIEF OF STAFF		STATE			
Location of Present Office (or forwarding address)	Address (Number, Street, City, State, and ZIP Code)			Telephone No. (Include Area Code)		
	2201 C STREET, NW, WDC 20520			202-647-5706		
Position(s) Held with the Federal Government During the Preceding 12 Months (If Not Same as Above)	Title of Position(s) and Date(s) Held					
	DEPUTY CHIEF OF STAFF JANUARY 2009 - PRESENT					
Presidential Nominees Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination			Do You Intend to Create a Qualified Diversified Trust?		
	Not Applicable			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Certification	Signature of Filer			Date (Month, Day, Year)		
I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge.				4/3/12		
Other Review (If desired by agency)	Signature of Senior Reviewer			Date (Month, Day, Year)		
				May 3/4/2012		
Agency Ethics Official's Opinion	Signature of Ethics Official			Date (Month, Day, Year)		
On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments in the box below.)				9/13/2012		
Office of Government Ethics Use Only				Date (Month, Day, Year)		
Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet)						
Sales: No reportable GG. (Check box if filing extension granted (6 indicate number of days _____) <input type="checkbox"/>						
2012 MAY -7 AM 10:12						
(Check box if comments are continued on the reverse side) <input type="checkbox"/>						

Supersedes SF 278 Editions

Fee for Late Filing
Any individual who is required to file this report and does so more than 30 days after the date the report is required to be filed, or, if an extension is granted, more than 30 days after the last day of the filing extension period, shall be subject to a \$200 fee.

Reporting Periods
Incumbents: The reporting period is the preceding calendar year except Part II of Schedule C and Part I of Schedule D where you must also include the filing year up to the date you file. Part II of Schedule D is not applicable.

Termination Filers: The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination. Part II of Schedule D is not applicable.

Nominees, New Entrants and Candidates for President and Vice President:

Schedule A--The reporting period for income (BLOCK C) is the preceding calendar year and the current calendar year up to the date of filing. Value assets as of any date you choose that is within 31 days of the date of filing.

Schedule B--Not applicable.

Schedule C, Part I (Liabilities)--The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.

Schedule C, Part II (Agreements or Arrangements)--Show any agreements or arrangements as of the date of filing.

Schedule D--The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

Agency Use Only

OGE Use Only

RELEASE IN FULL

Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT

Form Approved:
OMB No. 3209-0001

Date of Appointment, Candidacy, Election, or Nomination (Month, Day, Year)	Reporting Status (Check Appropriate Boxes)	Incumbent <input checked="" type="checkbox"/>	Calendar Year Covered by Report	New Entrant, Nominee, or Candidate <input type="checkbox"/>	Termination Filer <input type="checkbox"/>	Termination Date (If Applicable) (Month, Day, Year)
		<input checked="" type="checkbox"/>	2011			
Reporting Individual's Name	Last Name		First Name and Middle Initial			
	ABEDIN		HUMA M			
Position for Which Filing	Title of Position		Department or Agency (If Applicable)			
	DEPUTY CHIEF OF STAFF		STATE			
Location of Present Office (or forwarding address)	Address (Number, Street, City, State, and ZIP Code)			Telephone No. (Include Area Code)		
	2201 C STREET, NW, WDC 20520			202-647-5706		
Position(s) Held with the Federal Government During the Preceding 12 Months (If Not Same as Above)	Title of Position(s) and Date(s) Held					
	DEPUTY CHIEF OF STAFF JANUARY 2009 - PRESENT					
Presidential Nominees Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination		Do You Intend to Create a Qualified Diversified Trust?			
			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Certification	Signature of Filer		Date (Month, Day, Year)			
I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge.			4/3/12			
Other Review (If desired by agency)	Signature of Senior Reviewer		Date (Month, Day, Year)			
			5/4/2012			
Agency Ethics Official's Opinion	Signature of Ethics Official		Date (Month, Day, Year)			
On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments in the box below)			9/13/2012			
Office of Government Ethics Use Only						
Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet)						
Sales: No reportable GE.						
(Check box if filing extension granted & indicate number of days _____) <input type="checkbox"/>						
Comments are continued on the reverse side <input type="checkbox"/>						
Agency Use Only						
OGE Use Only						

Supersedes SF 278 Editions

RELEASE IN FULL

Abedin, Huma

UNCLASSIFIED U.S. Department of State Case No. F-2013-08812 Doc No: C05904363 Date: 11/13/2015

Abedin, Huma

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

Do not complete Schedule B if you are a new entrant, nominee, or Vice Presidential or Presidential Candidate

Reporting Individual's Name		SCHEDULE B										Page Number				
Abedin, Huma												4 of 7				
Part I: Transactions																
None <input type="checkbox"/>																
<p>Report any purchase, sale, or exchange by you, your spouse, or dependent children during the reporting period of any real property, stocks, bonds, commodity futures, and other securities when the amount of the transaction exceeded \$1,000. Include transactions that resulted in a loss.</p>		<p>Do not report a transaction involving property used solely as your personal residence, or a transaction solely between you, your spouse, or dependent child. Check the "Certificate of divestiture" block to indicate sales made pursuant to a certificate of divestiture from OGE.</p>		Transaction Type (x)		Date (Mo., Day, Yr.)	Amount of Transaction (x)									
		Purchase	Sale	Exchange		- \$1,001 to \$1,000	- \$1,000 to \$5,000	- \$5,000 to \$10,000	- \$10,000 to \$25,000	- \$25,000 to \$50,000	- \$50,000 to \$100,000	- \$100,000 to \$250,000	- \$250,000 to \$500,000	- \$500,000 to \$1,000,000	Over \$1,000,000	Certificate of divestiture
Identification of Assets																
Example: Central Airlines Common		x			2/1/99			x								
1	American Express	x			3/22/11	x										
2	Boeing Company	x			3/21/11	x										
3	3M Company			x	3/21/11	x										
4	Rowan Companies			x	3/21/11	x										
5	Sunpower Corp			x	5/17/11	x										
<p>* This category applies only if the underlying asset is solely that of the filer's spouse or dependent children. If the underlying asset is either held by the filer or jointly held by the filer with the spouse or dependent children, use the other higher categories of value, as appropriate.</p>																
Part II: Gifts, Reimbursements, and Travel Expenses																
<p>For you, your spouse and dependent children, report the source, a brief description, and the value of: (1) gifts (such as tangible items, transportation, lodging, food, or entertainment) received from one source totaling more than \$350 and (2) travel-related cash reimbursements received from one source totaling more than \$350. For conflicts analysis, it is helpful to indicate a basis for receipt, such as personal friend, agency approval under 5 U.S.C. § 4111 or other statutory authority, etc. For travel-related gifts and reimbursements, include travel itinerary, dates, and the nature of expenses provided. Exclude anything given to you by</p>										<p>the U.S. Government; given to your agency in connection with official travel; received from relatives; received by your spouse or dependent child totally independent of their relationship to you; or provided as personal hospitality at the donor's residence. Also, for purposes of aggregating gifts to determine the total value from one source, exclude items worth \$140 or less. See instructions for other exclusions.</p>						
None <input checked="" type="checkbox"/>																
Source (Name and Address)		Brief Description										Value				
Examples	Nat'l Assn. of Rock Collectors, NY, NY Frank Jones, San Francisco, CA	Airline ticket, hotel room & meals incident to national conference 6/15/99 (personal activity unrelated to duty) Leather briefcase (personal friend)										\$500 \$385				
1																
2																
3																
4																
5																

Reporting Individual's Name

Page Number

(Use only if needed)

5 of 7

Part I: Transactions

	Identification of Assets	Transaction Type (x)			Date (Mo., Day, Yr.)	Amount of Transaction (x)													
		Purchase	Sale	Exchange		\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000*	Over \$1,000,000*	\$1,000,001 - \$5,000,000	\$5,000,001 - \$25,000,000	\$25,000,001 - \$50,000,000	Over \$50,000,000	Certificate of Questionnaire	
1	Capline Corp		X		6/24/11	X													
2	Dow Chemical		X		6/24/11	X													
3	Live Nation Inc		X		6/24/11	X													
4	McGraw Hill Companies		X		6/24/11	X													
5	New York Times		X		6/24/11	X													
6	Sony Corporation		X		6/24/11	X													
7	Teco Energy		X		6/24/11	X													
8	Zimmer Holdings		X		6/24/11	X													
9	Boeing Company		X		6/24/11	X													
10																			
11																			
12																			
13																			
14																			
15																			
16																			

* This category applies only if the underlying asset is solely that of the filer's spouse or dependent children. If the underlying asset is either held by the filer or jointly held by the filer with the spouse or dependent children, use the other higher categories of value, as appropriate.

* This category applies only if the underlying asset is solely that of the filer's spouse or dependent children. If the underlying asset is either held by the filer or jointly held by the filer with the spouse or dependent children, use the other higher categories of value, as appropriate.

Reporting Individual's Name Abedin, Huma	SCHEDULE C	Page Number 6 of 7
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Part I: Liabilities

Report liabilities over \$10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. **Exclude** a mortgage on your personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances; and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.

None ☒

Creditors (Name and Address)		Type of Liability	Date Incurred	Interest Rate	Term if applicable	Category of Amount or Value (x)											
Examples						\$10,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$5,000,000	\$5,000,001 - \$25,000,000	\$25,000,001 - \$50,000,000	Over \$50,000,000	
	First District Bank, Washington, DC	Mortgage on rental property, Delaware	1991	8%	25 yrs.			x									
	John Jones, Washington, DC	Premissory note	1999	10 %	on demand					x							
1																	
2																	
3																	
4																	
5																	

* This category applies only if the liability is solely that of the filer's spouse or dependent children. If the liability is that of the filer or a joint liability of the filer with the spouse or dependent children, mark the other higher categories, as appropriate.

Part II: Agreements or Arrangements

Report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

None ☒

Example	Status and Terms of any Agreement or Arrangement	Parties	Date
	Pursuant to partnership agreement, will receive lump sum payment of capital account & partnership share calculated on service performed through 1/00.	Doe Jones & Smith, Hometown, State	7/85
1			
2			
3			
4			
5			
6			

Reporting Individual's Name Abedin, Huma	SCHEDULE D	Page Number 7 of 7
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Part I: Positions Held Outside U.S. Government

Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or

consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. **Exclude** positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

None ☒

	Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples	Natl Assn. of Rock Collectors, NY, NY Doe Jones & Smith, Hometown, State	Non-profit education Law firm	President Partner	6/92 7/83	Present 1/00
1					
2					
3					
4					
5					
6					

Part II: Compensation in Excess of \$5,000 Paid by One Source

Report sources of more than \$5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes the names of clients and customers of any corporation, firm, partnership, or other business enterprise, or any other

non-profit organization when you directly provided the services generating a fee or payment of more than \$5,000. You need not report the U.S. Government as a source.

Do not complete this part if you are an Incumbent, Termination Filer, or Vice Presidential or Presidential Candidate.

None ☐

	Source (Name and Address)	Brief Description of Duties
Examples	Doe Jones & Smith, Hometown, State Metro University (client of Doe Jones & Smith), Moneytown, State	Legal services Legal services in connection with university construction
1		
2		
3		
4		
5		
6		

~~SENSITIVE BUT UNCLASSIFIED~~

**United States Department of State
and the Broadcasting Board of Governors
Office of Inspector General**



Office of Inspector General

Office of Inspections

**Inspection of
the Bureau of Administration,
Global Information Services,
Office of Information Programs and Services**

Report Number ISP-I-12-54, September 2012

~~Important Notice~~

~~This report is intended solely for the official use of the Department of State or the Broadcasting Board of Governors, or any agency or organization receiving a copy directly from the Office of Inspector General. No secondary distribution may be made, in whole or in part, outside the Department of State or the Broadcasting Board of Governors, by them or by other agencies or organizations, without prior authorization by the Inspector General. Public availability of the document will be determined by the Inspector General under the U.S. Code, 5 U.S.C. 552. Improper disclosure of this report may result in criminal, civil, or administrative penalties.~~

~~SENSITIVE BUT UNCLASSIFIED~~

PURPOSE, SCOPE, AND METHODOLOGY OF THE INSPECTION

This inspection was conducted in accordance with the Quality Standards for Inspection and Evaluation, as issued in 2011 by the Council of Inspectors General on Integrity and Efficiency, and the Inspector's Handbook, as issued by the Office of Inspector General for the U.S. Department of State (Department) and the Broadcasting Board of Governors (BBG).

PURPOSE AND SCOPE

The Office of Inspections provides the Secretary of State, the Chairman of the BBG, and Congress with systematic and independent evaluations of the operations of the Department and the BBG. Inspections cover three broad areas, consistent with Section 209 of the Foreign Service Act of 1980:

- **Policy Implementation:** whether policy goals and objectives are being effectively achieved; whether U.S. interests are being accurately and effectively represented; and whether all elements of an office or mission are being adequately coordinated.
- **Resource Management:** whether resources are being used and managed with maximum efficiency, effectiveness, and economy and whether financial transactions and accounts are properly conducted, maintained, and reported.
- **Management Controls:** whether the administration of activities and operations meets the requirements of applicable laws and regulations; whether internal management controls have been instituted to ensure quality of performance and reduce the likelihood of mismanagement; whether instance of fraud, waste, or abuse exist; and whether adequate steps for detection, correction, and prevention have been taken.

METHODOLOGY

In conducting this inspection, the inspectors: reviewed pertinent records; as appropriate, circulated, reviewed, and compiled the results of survey instruments; conducted on-site interviews; and reviewed the substance of the report and its findings and recommendations with offices, individuals, organizations, and activities affected by this review.



United States Department of State
and the Broadcasting Board of Governors

Office of Inspector General

PREFACE

This report was prepared by the Office of Inspector General (OIG) pursuant to the Inspector General Act of 1978, as amended, and Section 209 of the Foreign Service Act of 1980, as amended. It is one of a series of audit, inspection, investigative, and special reports prepared by OIG periodically as part of its responsibility to promote effective management, accountability, and positive change in the Department of State and the Broadcasting Board of Governors.

This report is the result of an assessment of the strengths and weaknesses of the office, post, or function under review. It is based on interviews with employees and officials of relevant agencies and institutions, direct observation, and a review of applicable documents.

The recommendations therein have been developed on the basis of the best knowledge available to the OIG and, as appropriate, have been discussed in draft with those responsible for implementation. It is my hope that these recommendations will result in more effective, efficient, and/or economical operations.

I express my appreciation to all of those who contributed to the preparation of this report.

A handwritten signature in dark ink, appearing to read "Harold W. Geisel".

Harold W. Geisel
Deputy Inspector General

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Key Judgments

- Leadership and management practices contribute to problematic morale and poor communication across the Bureau of Administration, Global Information Services, Office of Information Programs and Services (IPS). Management controls in IPS are insufficient, indicating leadership and management deficiencies in many parts of the organization.
- The main responsibilities of IPS include managing the Freedom of Information Act (FOIA) and declassification programs, administering the Privacy Act, and conducting records management. Lack of cooperation from the Department of State (Department) and internal weakness hamper IPS's performance of these duties.
- IPS handles one of the largest FOIA workloads in the Federal Government. However, IPS's lack of a sound process to develop its information systems led to delayed and flawed deployment of the Freedom of Information Document Managing System 2 (FREEDOMS 2), IPS's key software for managing cases, resulting in significant backlogs.
- IPS's records management practices do not meet statutory and regulatory requirements. Although the office develops policy and issues guidance, it does not ensure proper implementation, monitor performance, or enforce compliance.
- IPS carries out its declassification duties well, due in large part to hiring experienced retirees to handle much of the work.
- Unclear lines of authority in the Privacy division hinder IPS's ability to fulfill its mandated responsibilities.
- The Bureau of Administration plans to consolidate information technology and resource management under IPS for all of Global Information Services (GIS). The consolidation needs careful review and better planning.

All findings and recommendations in this report are based on conditions observed during the on-site review and the standards and policies then in effect. The report does not comment at length on areas where OIG did not identify problems that need to be corrected.

The inspection took place in Washington, DC, between May 7 and June 15, 2012. (b) (6)



Context

IPS is responsible for the Department's records management and related technologies, including public access to information under FOIA, the Open Government Act of 2007, the Privacy Act, Executive Order (E.O.) 13526, and other legislation. This includes the following:

- Freedom of Information Act requests;
- Privacy information and protection;
- Classification management and review, including declassification;
- Corporate records management and special document production (e.g., answering a congressional or judicial request for information);
- The Department's Ralph J. Bunche Library; and
- The Diplomatic Research Service.

The office is in Washington and has no overseas locations. A director leads a staff of 358 employees, including 152 Civil Service employees, 184 when actually employed (WAE) staff members, and 22 student interns. IPS employs a varying number of contractors for different functions. Separate divisions provide information technology and resource management support.


IPS plays a critical role in the Department's communication with the public. By providing citizens access to the Department's records, the office is instrumental in maintaining openness and transparency in the conduct of foreign affairs.

IPS has multiple vacancies in branch and division leadership positions, with one branch chief job having been vacant since 2007. The current office director assumed her job in December 2011, after several months during which two employees shared leadership responsibilities.

Executive Direction

Persistent neglect of fundamental leadership responsibilities and management practices has had profound consequences in IPS. The OIG team's observations, discussions with IPS staff, and the responses to OIG's questionnaires indicated an office with problematic morale, perceptions of favoritism, micromanagement practices, and confused lines of authority. Inspectors found failures of communication, lack of training, questionable staffing decisions, and poor time and attendance record keeping. IPS's new director is just beginning to address the many challenges that she faces.

Many suggest that poor morale stems from frequently changing priorities and excessive workload. (b) (5)



Communication among all levels of IPS staff is poor. Division chiefs are located on the same floor in order to strengthen communication within higher-level management. This physical arrangement limits managers from seeing what their employees are doing on a daily basis, however. IPS leadership told the OIG team that they plan to change this arrangement with the building renovation, currently in process, which will colocate managers with members of their staff.

The office director and all division chiefs hold a weekly leadership meeting, but division chiefs do not hold regular staff meetings. There are also no all-hands meetings to provide interaction with upper level management and to discuss the organization's priorities. Open communication with staff would help build better morale and trust within IPS.

Recommendation 1: The Bureau of Administration should implement a policy requiring the Office of Information Programs and Services to schedule regular all-hands meetings and for division chiefs to hold weekly meetings with staff. (Action: A)

Policy and Program Implementation

Freedom of Information Act Process

The Department's FOIA process is inefficient and ineffective. IPS's backlog of 6,950 cases continues to grow. A relatively small staff is processing the heavy volume of requests and dealing with new software. Delays in responses from other bureaus, offices, and agencies contribute to the problem.

The Department receives among the highest number of FOIA requests in the U.S. Government. In FY 2011, IPS reported that it received 14,262 requests, in addition to the 21,252 requests already pending at the beginning of the year. IPS employees processed 26,802 requests during the year, leaving 8,712 pending. IPS reported that in FY 2011, the average number of days to process simple cases was 156; for complex cases, 342. Some cases have been pending for 5 or 6 years.

FOIA cases are prone to delay. The FOIA process begins with IPS's receiving and reviewing an incoming request. The request then goes to an analyst, who formulates a strategy to make the necessary searches, which can involve interacting with multiple domestic offices and overseas posts. Often, the Department's bureaus do not make the request a high priority. After the bureau responds, the analyst packages the documents and sends them to a reviewer, who may remove some documents or suggest additional searches. The package then goes to another reviewer, who determines whether exemptions in FOIA or other statutes apply and makes any necessary redactions. Finally, the package goes back to the analyst, who assesses any fees for searches and copies. The analyst then sends the document with a cover letter to the requester.

Fifty-four percent of the FOIA requests received by the Department in FY 2011 were invalid. The Department's FOIA Web site does not provide information for a requester that is clear enough to avoid mistakes. The process of assessing and responding to such requests is a drain on IPS staff time.

Recommendation 2: The Bureau of Administration should provide clearer instructions in the Freedom of Information section of the Department of State's Internet site to minimize the number of invalid requests. (Action: A)

Workflow problems and staffing deficiencies contribute to the FOIA backlog. The group that receives cases, the Requester Communication branch, has only one person, the branch chief, who is qualified to conduct quality checks, resulting in a bottleneck in the process.

Recommendation 3: The Bureau of Administration should train a second person in the Office of Information Programs and Services' Requester Communication branch to do quality checks. (Action: A)

Once a case is received and passed on to the analysts, another bottleneck occurs because analysts have trouble determining which offices or units should conduct the document searches. The Department is too large and complex for analysts to rely on their knowledge of the myriad

programs administered by so many bureaus and offices. The absence of a single systematic and reliable reference to enable analysts to identify which bureaus should receive search taskers results in misrouted taskers and processing delays.

Recommendation 4: The Bureau of Administration should develop a list of all bureaus and independent offices in the Department of State—complete with component offices, responsibilities, and programs administered—to serve as a reference for Freedom of Information Act case analysts in the Office of Information Programs and Services. (Action: A)

Introduction of Freedom of Information Document Managing System 2

In 2011, IPS introduced FREEDOMS 2, an updated version of its online case management system. Flaws in the introduction of the system have delayed FOIA cases even further, almost paralyzing the process. Those flaws include failure to involve users in the system upgrade, introduction of the system before it was ready, and lack of adequate training. The first two are discussed in the Information Technology section of this report, and the third is addressed in the Management Controls section.

Helping Other Organizations

IPS recently allowed several staffers who process FOIA requests to take excursion tours in Brazil to assist in visa processing. At a time when IPS has a large backlog of cases, it is unwise to divert staff to other duties.

Informal Recommendation 1: The Bureau of Administration should not assign Office of Information Programs and Services staff members to other organizations until that office has reduced its backlog of Freedom of Information Act cases.

Current Description of the Department of State's Organization

FOIA requires each agency to publish in the *Federal Register* a statement of its central and field organization, showing where the public may obtain information, make requests, or obtain decisions, along with other information about agency procedures.¹ Despite significant organizational changes, the Department has not filed an updated statement since 1986. As a result, the Department is not in compliance with the statute.

Recommendation 5: The Bureau of Administration, in coordination with the Office of the Legal Adviser, should publish an updated notice of the Department of State's organization. (Action: A, in coordination with L)

¹ 5 U.S.C. 552(a)(1).

Litigation Team

The litigation team provides support for cases in litigation. A manager who is new to litigation and the legal field in general heads the team. [REDACTED] This (b) (5) [REDACTED] coupled with vacancies at the branch chief and division chief levels, has led the litigation team to rely upon one another and, to a lesser extent, the Office of the Legal Adviser attorneys who manage the FOIA litigation portfolio, forcing the attorneys to assume duties that are the responsibility of the branch chief. Teamwide training in court proceedings would facilitate better management of this complex portfolio.

Recommendation 6: The Bureau of Administration, in coordination with the Office of the Legal Adviser, should implement a training plan for the Freedom of Information Act litigation team in the Office of Information Programs and Services. (Action: A, in coordination with L)

Litigation team members work together well but lack a dedicated group of reviewers to support cases currently in litigation. To assist, IPS pulls reviewers from other divisions, which increases the backlog in those divisions and demoralizes employees removed from their regular work. This problem will only become more severe if the recent upward trend in litigation volume continues.²

Recommendation 7: The Bureau of Administration should assign full-time reviewers to support the Freedom of Information Act litigation team in the Office of Information Programs and Services. (Action: A)

Appeals Team

The Appeals branch handles appeals concerning FOIA requests, mandatory declassification reviews, classification challenges, and the Privacy Act. The appeals analyst and a panel of retired ambassadors, who head a quarterly panel, manage FOIA appeals capably, if sometimes slowly. In addition, the Office of the Legal Adviser provides legal review as necessary. Roughly half of the appeals result in the release of additional information because of the passage of time, an error in the original case analysis within IPS, or an insufficient records search by the tasked Department bureau. Better communication from the Appeals branch could improve the FOIA process. Updates to IPS case analysts and Department FOIA liaison officers, giving examples of commonly recurring mistakes, as well as examples of best practices, could reduce the number of appeals and improve overall customer service.

Informal Recommendation 2: The Bureau of Administration should implement a process to provide periodic updates highlighting common errors and best practices to guide Freedom of Information Act case analysts and liaisons in the Office of Information Programs and Services.

² The increase in the number of lawsuits is due, in part, to a 2007 statutory amendment, 5 U.S.C. § 552(a)(4)(E)(i) (2006), amended by the Open Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524. This "fee-shifting" provision permits the trial court to award reasonable attorneys' fees and litigation costs to a plaintiff who has "substantially prevailed," which, as redefined by the 2007 amendment, is a fairly low threshold.

The retired ambassadors who make up the appeals panel review FOIA appeals quarterly. Qualified by their experience, perspective, and knowledge, they are highly regarded by observers inside and outside the Department. However, meeting only quarterly limits the efficiency of the appeals process and creates delays.

Informal Recommendation 3: The Bureau of Administration should schedule additional appeals panel meetings throughout the year to expedite the Freedom of Information Act appeals process.

Departmentwide Training

IPS staff reports that most Department employees are poorly informed about FOIA principles and procedures, as well as the importance of providing information to the public. IPS staff also says that assistant secretaries, deputy assistant secretaries, and office directors sometimes fail to place sufficient emphasis on FOIA responsibilities to ensure that search taskers receive prompt responses, the lack of which is a major cause of delays.

Recommendation 8: The Bureau of Administration should instruct the Freedom of Information Act program manager to prepare a semiannual newsletter dealing with Freedom of Information Act issues for officers who deal with such issues at all domestic bureaus and U.S. embassies. (Action: A)

Recommendation 9: The Bureau of Administration, in coordination with the Foreign Service Institute, should develop a distance-learning course dealing with the fundamentals of the Freedom of Information Act and require all Freedom of Information Act officers to take the course. (Action: A, in coordination with FSI)

IPS is also responsible for administering E.O. 13526, which prescribes a “uniform system for classifying, safeguarding, and declassifying national security information.”³ The Department and other executive agencies have an affirmative duty to train their employees in proper classification and declassification of documents, to declassify materials as quickly as national security will allow, and to self-inspect employees’ compliance with the E.O.’s provisions.

In-person and online E.O. 13526 training is currently offered as an optional course. Although some offices have requested and completed the in-person training option, and some individual employees have completed the online training option, Department employees remain largely unaware of their legal obligation to comply with E.O. 13526. The deadline for fulfilling the mandatory E.O. 13526 training requirement for original and derivative document classifiers was June 2010.⁴

Recommendation 10: The Bureau of Administration, in coordination with the Office of the Under Secretary for Management, should implement a policy requiring all employees to

³ E.O. 13526, 3 C.F.R. 298 (Dec. 29, 2009), 75 Fed. Reg. 707 (Jan. 5, 2010), corrected at 75 Fed. Reg. 1013 (Jan. 8, 2010). These provisions went into full effect on June 25, 2010, except for sections 1.7, 3.3, and 3.7, which were effective immediately.

⁴ *Id.* at § 6.3.

complete the classification training mandated under Executive Order 13526. (Action: A, in coordination with M/PRI)

The job of developing training and other programs to support the FOIA process belongs to IPS's FOIA program manager. The current leadership void in the Program and Policy division chief position leaves the FOIA program manager with no direct supervisor. Although the incumbent has a strong background in FOIA and the Privacy Act, IPS has not exploited her talents. IPS has not conducted planning to address the increase in FOIA cases or the Department's large backlog. IPS has undertaken some special projects, but these have largely highlighted the need for an overhaul of the Department's FOIA efforts.

Informal Recommendation 4: The Bureau of Administration should provide guidance and the necessary resources for the Office of Information Programs and Services' Freedom of Information Act program manager to improve Act-related efforts throughout the Department of State via training, updates, and systemic changes.

Information Access Program

The Information Access Program branch responds to special requests, including those from Congress, the Department of Justice (generally in connection with litigation), and other agencies. The special nature of the requests normally results in rapid responses from Department offices. The Information Access Program branch appears to be functioning well despite the leadership void affecting the rest of the Programs and Policies division. This efficiency is due largely to the efforts of the current branch chief, who emphasizes communication, training, feedback, awards, and staff development—practices that are rare in this organization.

Despite the large number of hard-copy documents IPS reproduces, the office lacks copy machines that can handle the volume required. Until IPS develops a method to process and disseminate all documents electronically—a step that may be complicated by the classification level of some documents—the office will continue to experience processing delays due to the use of slow or inoperative copy machines.

Informal Recommendation 5: The Bureau of Administration should provide the Office of Information Programs and Services with high-speed copy machines to facilitate the workflow until the office can implement a greener solution.

Requests via the Department of Homeland Security

The Department receives many requests that were sent incorrectly to the U.S. Citizenship and Immigration Services. The requesters receive a form letter stating that they should request the information from the Department. However, the letter does not inform the requester that the Department does not accept Department of Homeland Security forms, so when IPS receives the package, it rejects it until the requester provides the Department forms.

Recommendation 11: The Bureau of Administration should negotiate a reworded refusal letter with the U.S. Citizenship and Immigration Services Freedom of Information Office that informs

requesters of Department of State requirements for Freedom of Information Act requests. (Action: A)

Measures to Fix Responsibility throughout the Department

Personnel in Department bureaus who serve as liaisons to IPS are normally staff assistants or others for whom FOIA responsibilities are a small part of their job. Their lack of responsiveness indicates that performance in handling FOIA requests is not a significant factor in their evaluations. Even if it were, the Department has not developed performance standards for responding to IPS's requests for documents. IPS does not report to the upper levels of the Department about the responsiveness of bureaus and embassies on FOIA. To improve the Department's FOIA performance, the Department must fix responsibility at all stages of the process.

Recommendation 12: The Bureau of Administration, in coordination with the Executive Secretariat, should develop performance standards for responding to Freedom of Information Act search requests and provide semiannual reports on compliance for the Secretary, Deputy Secretaries, and Assistant Secretaries. (Action: A, in coordination with S/ES)

Recommendation 13: The Bureau of Human Resources, in coordination with the Bureau of Administration, should review and update all position descriptions and work requirements for the bureaus' contacts for Freedom of Information Act responsibilities. (Action: DGHR, in coordination with A)

Recommendation 14: The Bureau of Administration should develop a list of officers with Freedom of Information Act responsibilities at all U.S. embassies. (Action: A)

More Effective Allocation of Attorneys' Fees

The Open Government Act of 2007 makes it easier for plaintiffs to recover attorney's fees and other litigation costs under FOIA, including those imposed for an agency's failure to meet statutory deadlines. The amendments also prohibit the use of funds from the U.S. Government's Claims and Judgment Fund to pay those fees. IPS now pays those fees out of its budget. Sometimes when the courts assess attorney fees, it is because a bureau tasked by IPS has been dilatory in providing IPS the documents requested by the plaintiff. In those cases, it is only fair that the bureau be responsible for paying its share of attorneys' fees.

The number of cases in which the Department is a defendant has tripled in the past 3 years, from 25 to 81. The Department's liability for fees is likely to increase. Establishing a system of assessing a fair share of attorneys' fees to the bureaus at fault would instill more responsibility in the Department's bureaus and better fulfill the intent of the Open Government Act of 2007. To this end, IPS has asked for a special fund to pay attorneys' fees and other litigation expenses in its current budget request.

Recommendation 15: The Bureau of Administration should implement a system for billing Department of State bureaus for any attorneys' fees assessed in court cases related to the

Freedom of Information Act if delays by the bureau contributed to the court's assessment of the attorneys' fees. (Action: A)

Support for the Litigation Team

The FOIA-related litigation workload has increased dramatically. The Office of the Legal Adviser formerly provided one attorney to serve as the litigation team's liaison with the Department of Justice, which manages the Department's FOIA litigation. However, the FOIA litigation portfolio represented only 40 percent of the attorney's overall Office of Legal Adviser workload. The attorney selected for this role is invariably new to the Department and, generally, new to FOIA, resulting in a steep subject-matter learning curve. This combination of factors recently led the Office of the Legal Adviser to assign a second part-time attorney to help with FOIA litigation matters, placing the litigation team in the difficult position of working with two attorneys who juggle additional litigation deadlines in their respective portfolios. Furthermore, given the Office of the Legal Adviser's normal rotation cycle, an attorney who is new to the Department and to FOIA will fill this part-time portfolio every 2 years. At a minimum, the litigation team needs sufficient support for the heavy FOIA litigation portfolio.

Recommendation 16: The Office of the Legal Adviser, in coordination with the Bureau of Administration, should review the staffing needs of the Office of Information Programs and Services' Freedom of Information Act litigation team and assign staff as necessary to provide adequate coverage. (Action: L, in coordination with A)

Declassification/Executive Order 13526 – Systematic Review Program Division

IPS is responsible for declassifying the Department's foreign policy records, as well as for conducting manuscript reviews for former Department employees. WAE reviewers conduct foreign policy record declassification. One prerequisite for employment is that the WAE be a retired FS-01 or GS-15 or higher from the Department, the U.S. Agency for International Development, or the former U.S. Information Agency. This qualification helps ensure that reviewers have subject matter expertise and reviewer competence in their areas of declassification. Hiring senior-ranked retirees and paying high wages reflects in the quality of reviews. The Information Security Oversight office (ISOO), National Archives and Records Administration, noted the Department as one of the best Federal agencies in declassification accuracy.⁵

⁵ Report to the President, National Archives and Records Administration, 2010 and 2011.

Innovative Practice: Declassification Assessments

Innovative Practice: Declassification Assessments

Issue: E.O. 13526 directs all executive branch agencies to establish and maintain an ongoing self-inspection program. Its purpose is to assess the effectiveness of the classified national security information program within individual agency activities and the agency as a whole in order to comply with section 5.4 (d) (4) of the order.

Response: ISOO conducts a declassification assessment of 16 executive agencies by reviewing a sample size proportionate to the number of documents reviewed in a 6-month period. Assessments focus on missed equities, inappropriate referrals to other agencies, and improper exemptions.

Result: For 2010 and 2011, ISOO evaluated a sample of the Department's declassified holdings. The result was an accuracy rating of 100 percent for both years. The Department's perfect score is due to the hiring of experienced and highly qualified senior-level WAE personnel.

In addition, WAEs conduct manuscript reviews in the Lifecycle Management office, which falls under the E.O. 13526 program manager's supervision. This office supports authors' efforts to publish their diverse work, which ranges from articles and op-ed pieces to book-length projects, by sifting through manuscripts for classified information.⁶

Declassification Backlog

Approximately 85 percent of all material reviewed is declassified. IPS refers another 13 percent to other agencies for review. Two percent is exempt under one of nine categories in E.O. 13526, Section 3.3 (b).

The Electronic Review and Foreign Relations of the United States/Mandatory Review branches in IPS have an adequate workforce to maintain a steady declassification rate; however, the Paper Review branch, with about half the total Systemic Review Program division staff, will eventually become backlogged at current rates of declassification. The Paper Review branch declassifies in 5-year cycles. The division is currently reviewing material for years 1986 to 1990. The goal of the Paper Review branch is to review 4 million pages annually, a rate of productivity that will prevent a backlog. The current rate is 2.5 million to 3 million pages per year. The Paper Review branch will not complete the current cycle as scheduled and will not be prepared to review files for the next period, 1991–1996. Further compounding this problem was the enactment of the Kyl-Lott Amendment to the 1999–2000 Defense Authorization Act, which requires another review of material previously declassified prior to 2001.

Recommendation 17: The Bureau of Administration should review staffing resources in the Office of Information Programs and Services' Paper Review branch with a view toward reducing the declassification backlog. (Action: A)

⁶ E.O. 13526, 3 C.F.R. 298 (Dec. 29, 2009), 75 Fed. Reg. 707 (Jan 5, 2010), corrected at 75 Fed. Reg. 1013 (Jan. 8, 2010).

Archives Technician – Paper Review Branch

The Paper Review branch has one GS-08, Series 1421, archives technician in its staffing pattern. According to the Office of Personnel Management's position description for this series, the archives technician is supposed to be assembling, correlating, and analyzing data and information for specific record-keeping programs, rather than retrieving, preparing, and returning storage boxes of document material for branch declassification reviewers. The OIG team notes that one of the branch manager's goals is to assign data entry duties to direct hires, therefore reserving more time for WAE reviewers to conduct their primary duty of declassification.

Recommendation 18: The Bureau of Administration should assign appropriate duties to the Series 1421 archives technician in the Office of Information Programs and Services' Paper Review branch so that this employee conducts data entry duties in accordance with the Office of Personnel Management's position description for this series. (Action: A)

Foreign Affairs Officer – Foreign Relations of the United States/Mandatory Review Branch

A GS-13 foreign affairs officer is one of two direct-hire employees in the Foreign Relations of the United States/Mandatory Review branch of the Systematic Review Program division. According to his position description, the occupant should be the key decisionmaker in the public release of declassified information, act as interagency liaison officer, represent IPS in contacts with other Federal agencies, and make recommendations for improvement of the declassification program. Instead, the branch chief carries out these duties, and the GS-13 officer spends most of his time on routine data entry and other administrative requirements that reflect neither his qualifications nor grade level.

Recommendation 19: The Bureau of Administration, in coordination with the Bureau of Human Resources, should review the description for foreign affairs officer position GS-130-13 in the Office of Information Programs and Services' Foreign Relations of the United States/Mandatory Review branch and reclassify the position, if appropriate. (Action: A, in coordination with DGHR)

Declassification Guides

IPS does not have a formal means of providing interim declassification guidance to WAE declassification reviewers. The Department updates formal declassification guides every 5 years; however, because of the lack of both horizontal and vertical communication, coupled with little interaction between the branches of the Systematic Review Program division, new declassification guidance is not distributed regularly among the WAEs, thus increasing the chance of error.

Informal Recommendation 6: The Bureau of Administration should develop an interim read file of the most recent declassification guidance for distribution to all declassification reviewers in the Office of Information Programs and Services' Systematic Review Program division.

Records Management

IPS provides records management policy and guidance to domestic bureaus and overseas posts but has no means of enforcement. The Department therefore does not comply with pertinent legal requirements, such as those in the Federal Records Act or *Foreign Affairs Manual* (FAM). The high scores that the National Archives and Records Administration give the Department on its records management program disguise the extent to which the Department fails to capture records for proper disposition.

The Department's records management infrastructure is inefficient and ineffective. It relies largely on a print-to-file system that requires domestic offices and overseas posts to print hard copies of documents and send them by the boxful to a records service center for laborious processing and storage. Existing tools that can capture records, such as the State Messaging and Archive Retrieval Toolset (SMART), are used only intermittently, resulting in significant loss of permanent records. Failure to develop and implement electronic systems has resulted in poor performance.

Attendance at the latest semiannual bureau records coordinator meetings reflects the lack of IPS influence and bureau interest: 11 of 31 coordinators attended the winter 2011 session, and 19 of 31 attended the spring 2012 session. IPS formerly offered a weekly briefing for overseas information management officers in Washington for consultations but cancelled it due to lack of participation after the Bureau of Information Resource Management made the briefing optional. IPS now offers an elective briefing that is seldom, if ever, requested.

Recommendation 20: The Bureau of Administration, in coordination with the Bureau of Information Resource Management, should implement a plan—including adequate management, monitoring, and compliance followup controls—to facilitate domestic bureau and overseas post compliance with Federal statutory requirements for and Department of State guidance on records management. (Action: A, in coordination with IRM)

Records Management Program Management

The Department's records management deficiencies begin at the first stage of the records life cycle creation. IPS cannot identify how many records the Department creates. Although it can reasonably account for the telegraphic records now captured in SMART, IPS cannot account for hard-copy records that domestic bureaus and overseas posts should be sending on a regular basis to the records service center. In the realm of print-to-file records, IPS tracks the number of boxes that it receives but has no way of knowing whether offices and posts are partially or fully compliant. Neither can IPS account for millions of record emails that SMART should capture. In 2011, for example, SMART captured 61,156 of an estimated 15 million record emails in the system that should be captured. The OIG team noted that confusion among Department employees and, in some cases, inadequate performance have resulted in an underuse of SMART's record email function.

Recommendation 21: The Bureau of Administration, in coordination with the Bureau of Information Resource Management, should implement a plan to identify and capture all record

email in the State Messaging and Archive Retrieval Toolset. (Action: A, in coordination with IRM)

At the time of the inspection, IPS was conducting an analysis to determine the level of overseas post compliance with records management requirements. However, the methodology of this analysis is flawed and the results unverifiable. Without a verifiable gap analysis to gauge the scope of the information shortfall, IPS is unable to prepare for downstream effects, such as increased workload for declassification and FOIA activities, and risks potential loss of historical documents.

Recommendation 22: The Bureau of Administration, in coordination with the Bureau of Information Resource Management, should conduct a verifiable analysis to determine the level of compliance of domestic bureaus and overseas posts to records management statutes and regulations. (Action: A, in coordination with IRM)

Electronic Records

The November 2011 Presidential Memorandum, *Managing Government Records*, seeks to reform records management policies and practices. It requires agencies to include “plans for improving or maintaining its records management program, particularly with respect to managing electronic records....” The Department has much room for improvement in this area.

IPS, realizing the need for an electronic records system, commissioned an August 2011 study, *A Long Term Enterprise-Wide Records Management Strategy for Electronic Records*. The report envisions a solution to managing and preserving records that now are stored in network shared drives, workstation drives, and SharePoint sites. The increasing reliance on shared drives and SharePoint sites and the impracticality of the print-to-file method justify an enterprisewide electronic solution that also would minimize, if not eliminate, the print-to-file method. IPS has yet to fund an electronic records system, thereby relegating the Department to languish in inefficiency and fall short of goals highlighted in the November 2011 Presidential memorandum. Full implementation of an electronic records system would minimize, if not eliminate, the print-to-file method.

Recommendation 23: The Bureau of Administration should implement an enterprisewide plan to manage and preserve electronic records in accordance with Federal statutes, regulatory requirements, and the November 2011 Presidential memorandum on electronic records management. (Action: A)

Permanent records figure prominently in IPS’s priorities, but the office could take advantage of improvements in the management of temporary records to produce electronic records, dispose of paper copies, avoid the need for storage, and avoid warehousing costs. A July 2007 Department notice promulgated guidance on digital imaging for records management. The recently published *Foreign Affairs Handbook* (FAH) regulation 5 FAH-4 H-612 b. amplifies the notice and states that “temporary paper records may be destroyed after the records have been converted to an electronic format and verified for 100 percent accuracy and completeness.” Domestic offices and overseas posts would benefit greatly if the Department issued standard guidance and processes for digitizing temporary records, particularly those required in general

services and financial management operations. Such action also would fulfill the intent of the November 2011 Presidential memorandum.

Recommendation 24: The Bureau of Administration, in coordination with the Bureau of the Comptroller and Global Financial Services, should issue joint guidance on digitizing temporary records and subsequent destruction of paper records after conversion and verification of accuracy and completeness. (Action: A, in coordination with CGFS)

Ralph J. Bunche Library

Founded by Thomas Jefferson in 1789, the Ralph J. Bunche Library is the oldest library in the Federal Government. With a print collection of more than 300,000 items, the library handled visits by almost 17,000 patrons and circulated approximately 42,000 items in 2011.

Like most libraries, the Ralph J. Bunche Library is increasing the services it provides online. Last year, the library had almost 16,500 online user sessions, a 31 percent increase over 2005. The move to more online resources means that the library is now able to serve patrons around the clock, not just in Washington, but also at all Foreign Service posts. The increasing reliance on online resources requires paying for access for specialized databases the Department needs.

In 2001, the library became responsible for handling acquisition of online resources for much of the Department and received an increase to its budget base. In the intervening years, the cost of online resources has gone up without a matching increase in funding. Database access costs absorb a larger portion of the library's budget every year. Budget pressure sometimes requires staff to drop useful but costly services, such as the Global Trade Atlas, a source of trade data used by Department economists. In addition, acquisition of books and other traditional print materials has declined, with new items usually purchased only when a patron requests them. These changes are occurring at most libraries and require the Department to rethink the way it funds information services. Library management has not been silent about the need for budget increases but has not presented a strong case for increased funding.

Informal Recommendation 7: The Bureau of Administration should analyze the effect of the increased cost of electronic acquisitions in the Ralph J. Bunche Library so that Department of State leadership can make an informed decision about appropriate funding levels for the library.

The library provides valuable research and reference material to Department employees, both in Washington and overseas. To inform potential patrons about their services, library staff members make presentations during the Civil Service Orientation and Office Management Specialist Training. They also sometimes see the Orientation for Foreign Service Officers (A-100 classes) during tours of the Department. The library has also instituted a speaker series to enhance outreach, but many other opportunities exist to promote library services. For example, there has been no effort to provide information about library services in senior training courses or in courses aimed at locally employed staff, other than those who work in Information Resource Centers overseas.

Recommendation 25: The Bureau of Administration, in coordination with the Foreign Service Institute, should expand the number of presentations the Ralph J. Bunche Library makes to Foreign Service Institute students. (Action: A, in coordination with FSI)

Privacy Division

The Privacy division (PRV), staffed by nine full-time employees and two contractors, handles the Department's privacy awareness and training, as well as compliance with privacy and personally identifiable information (PII) statutes.

The lack of clarity on the management of PRV has hindered the division's ability to perform its responsibilities and adversely affected staff morale. Currently, PRV receives direction and assignments from the senior advisor for privacy policy (SAPP), an individual reporting to the deputy assistant secretary. The SAPP is heavily involved in day-to-day PRV activities, including tasking PRV staff members to develop presentations, participating in subcommittees, and responding to queries from other Department offices. The SAPP also holds one-on-one meetings with PRV staff to discuss personnel matters. Additional complications occur during the clearance process, because the SAPP and the director of IPS are reviewing and clearing correspondence—on several occasions each expressing a different view on the direction or message represented or both.

The OIG team heard discussions repeatedly about moving PRV out of IPS to report directly to the deputy assistant secretary, possibly with PRV staff reporting to the SAPP, whose position would become permanent. The OIG team, however, questions this strategy, especially given that senior management provided no examples to show that the division is not able to achieve requirements, including interagency coordination and interaction. The OIG team would encourage Department senior management to evaluate further the potential move of PRV and determine whether such action would be disruptive rather than productive for the bureau.

Recommendation 26: The Bureau of Administration should define a clear division of roles, responsibilities, and management reporting between the senior advisor for privacy policy and the Privacy division in the Office of Information Programs and Services. (Action: A)

Privacy/Personally Identifiable Information Training

Department employees receive privacy/PII training via a distance-learning course, PA 459, offered by the Foreign Service Institute. PRV develops the course content, and the Foreign Service Institute assists with graphics and course placement on the training site. The Federal Information Security Management Act (FISMA) and Office of Management and Budget guidance⁷ require annual security and privacy training for all Department employees, including contractors. PA 459 is required only for Department full-time employees, and only once, not annually. Contractors, who account for a large portion of the Department's workforce, are not required to take this training.

⁷ Office of Management and Budget Memorandum 07-16, *Safeguarding Against and Responding to the Breach of Personally Identifiable Information*, May 2007, and Office of Management and Budget Memorandum 11-33, *FY 2011 Reporting Instructions for the Federal Information Security Management Act and Agency Privacy Management*, September 2011.

PRV discussed with the Bureau of Diplomatic Security about combining the privacy/PII training requirements and the annual cyber security training course required for all Department employees. Combining the courses would enable the Department to comply with annual security and privacy training requirements. Without regular privacy training, the Department is at greater risk for accidental disclosure of sensitive information.

Recommendation 27: The Bureau of Administration, in coordination with the Bureau of Diplomatic Security and the Foreign Service Institute, should combine the Department of State's cyber security training course and the privacy and personally identifiable information training course into a single mandated course that all Department of State employees, including contractors, take annually. (Action: A, in coordination with DS and FSI)

Privacy Impact Assessments and System of Record Notices

PRV has been unable to comply with privacy impact assessment and system of record notice requirements under the Privacy Act because of the considerable amount of time it spends interacting with and waiting for necessary information from bureau personnel. The Privacy Act requires completion of a privacy impact assessment for each information system to determine the risks and effects of collecting, maintaining, and disseminating data in identifiable form in an electronic information system. The Privacy Act requires publication of system of record notices in the Federal Register to inform the public what types of records the Department maintains, whom the records are about, and what uses are made of them. PRV coordinates with personnel from Department bureaus to complete system of record notices and privacy impact assessments.

The Department currently has 78 published system of record notices and more than 150 privacy impact assessments. PRV reviews the notices and assessments for accuracy by contacting bureaus for assistance in gathering needed information. However, PRV has been unable to comply with requirements regarding privacy impact assessments and system of record notices due to lack of responsiveness from bureau personnel. As a result, PRV staff spends a considerable amount of time either editing these documents or waiting for the correct information.

The level of interest shown by bureaus in completing privacy impact assessments and system of record notices depends heavily on whether completion is tied to the Department's annual FISMA reporting to the Office of Management and Budget. For FISMA reportable systems, Department bureau personnel have been responsive to information requests because they are accountable for incomplete records. However, bureau personnel do not give nonreportable systems the same level of importance or urgency for completion. In the absence of Department senior management emphasis on the importance of complying with Privacy Act requirements for all systems, the Department is vulnerable to improper collection or release of privacy-related information.

Recommendation 28: The Bureau of Administration should implement a policy requiring all bureau executive offices to designate individual(s) to be the point of contact for their bureau's privacy impact assessments and system of record notices and to provide this point of contact information to the Office of Information Programs and Services' Privacy division. (Action: A)

Recommendation 29: The Bureau of Administration should implement a policy requiring all bureaus to complete necessary updates and revisions for their respective privacy impact assessments and system of record notices as required by the Privacy Act of 1974. (Action: A)

Department Data Loss Prevention Pilot

PRV participates in the Department's Data Loss Prevention pilot, along with the Bureaus of Information Resource Management and Diplomatic Security. The pilot committee, formed in September 2009, works to determine possible solutions to the inappropriate use of sensitive information on email, mobile devices, and Web sites. PRV staff members assist with the development of policies and procedures for the Data Loss Prevention effort as it relates to privacy and participate in the analysis of identified incidents.

The Data Loss Prevention pilot is ready to move forward as an established program within the Department; however, the Department has yet to determine where the program will reside and which bureau will have ownership of the tool. The pilot committee has discussed the possibility of PRV having ownership of the program. However, the OIG team does not agree with this plan. Although the Data Loss Prevention tool currently reviews data from a privacy perspective, its scope could easily be increased to include other information security elements, including law enforcement, financial, and consular functions—a fact confirmed by the pilot committee. The Chief Information Officer in the Bureau of Information Resource Management would be the appropriate owner of the program and tool, as that office is responsible for the information security program for the Department and administers many of the Department's current information security programs.

Recommendation 30: The Bureau of Information Resource Management should take ownership of the Data Loss Prevention program and tool for the Department of State. (Action: IRM)

Resource Management

Administrative Functions

OIG questionnaires described the resource management team as professional and helpful. Currently, the resource management staff consists of a division chief, three program analysts, one program assistant, and an administrative officer. Contract staff provides support for the mailroom, security, and other administrative responsibilities, including time and attendance. Plans are underway with the Bureau of Administration to consolidate all resource management functions within GIS. The OIG inspectors found problems with the performance appraisal process, position descriptions, awards program, contracts, and management controls.

Performance Evaluations

For the FY 2011 rating period, IPS had 37 incomplete evaluations as of March 15. According to 3 FAH-1 H-2823.1 e. and 3 FAM 2827.7, delinquent raters should be reported to the Bureau of Human Resources' Office of Civil Service Human Resources Management. The Office of the Executive Director in the Bureau of Administration has issued at least four reminders to senior management regarding the urgency to complete evaluations. IPS employees said that staff mentoring and training need improvement. IPS management has not made staff development a priority because of the heavy workload. Some employees noted that the only training they have received during their tenure in IPS is on-the-job training and that they receive minimal constructive feedback regarding performance. OIG team members counseled a number of management staff members, including managers, throughout the inspection.

Recommendation 31: The Bureau of Administration should train supervisors and staff on the performance appraisal process and individual development plans and develop a mentoring program for employees. (Action: A)

Recommendation 32: The Bureau of Administration should include the timely preparation of employee appraisals in supervisors' work requirements. (Action: A)

Position Descriptions

Many position descriptions have not been updated recently, with some dating from 1990. For example, two positions in the organization are at the GS-08 level and require immediate reclassification, as these positions (numbers S9017500 and S97068) are not at an appropriate grade level. One position (see the section on declassification in this report) is conducting duties appropriate for a lower grade level. The other position is in the wrong division, based on the individual's actual duties and responsibilities.

Recommendation 33: The Bureau of Administration should update the position descriptions for position numbers S9017500 and S97068. (Action: A)

Awards Program

IPS has an active awards program, but many employees noted that its implementation appears unfair. A few upper-level management employees appeared to receive consistent high-dollar cash awards in the past 3 years, but division staff at lower grade levels did not receive corresponding amounts. According to staff members, many believe that only a select group of individuals in IPS receives awards each year. A review of the awards file from 2007 to 2011 showed that IPS approved awards in widely varying and inconsistent amounts. Lack of an equitable awards program has a negative effect on staff morale.

Recommendation 34: The Bureau of Administration should implement a plan to clarify standards for the Office of Information Programs and Services' awards program and to set appropriate amounts for cash awards. (Action: A)

Contracts

IPS executes approximately \$20.3 million in contracts for non-information technology services and \$7.9 million for information technology services. Most responsibilities for contracting officer's representatives fall on the IPS Resource Management branch chief, who monitors 10 contracts but has little daily involvement with the contractors and their scope of work. Having contracting officer's representatives and government technical monitors with constant interaction with their contractor staff will improve evaluation of performance and help achieve proper management oversight. If not corrected, this issue could lead to overpayment of contractors or failure to meet project milestones.

Recommendation 35: The Bureau of Administration should realign contracting officer's representative and government technical monitor responsibilities in the Office of Information Programs and Services to improve contract oversight management. (Action: A)

Financial Management

Each year, IPS receives single-year funding that is divided into three categories: information programs and services, systems, and library services. The bulk of the budget pays for direct-hire staff, WAEs, and contractor personnel. IPS has no budget plan that identifies program objectives and funding priorities for each office. IPS would benefit from discussions with division heads on critical budget needs.

Although budget responsibilities are centralized in the Bureau of Administration's Office of the Executive Director, IPS has a designated program analyst who has coordinating responsibility for the budget and personnel support. However, this person is relatively new to the Department and is unfamiliar with its financial regulations.

Informal Recommendation 8: The Bureau of Administration should enroll the Office of Information Programs and Services' resource management program analyst in financial management training.

Telework Policy

Under 3 FAM 2362.1, the employee and supervisor must establish a telework agreement outlining the specific work arrangement before the employee begins teleworking. Both parties must review these agreements annually and upon any material change in work circumstances (i.e., promotion or new supervisor). IPS has a list of teleworkers for the office but has not reviewed some of their agreements in the past year.

Informal Recommendation 9: The Bureau of Administration should implement a policy that requires the Office of Information Programs and Services to review its telework agreements annually.

Information Technology

The Archiving and Access Systems Management division (AAS), staffed by 21 full-time employees and 25 contractors, handles the development and implementation of the Department's State Archiving System (SAS) and FREEDOMS, in addition to providing technical support to IPS employees.

The arrival of the division chief has received mixed reactions from staff members. [REDACTED]

Systems Development and Project Management

AAS lacks a sound and defined systems development life cycle methodology⁸ and appropriate implementation of project management for its systems development and enhancement projects. This resulted in a number of complaints the OIG team heard regarding the functionality and use of SAS and FREEDOMS. SAS maintains the authoritative records of official correspondence, communications, and documentation related to U.S. foreign relations. FREEDOMS is an information access, case tracking, and document management system used for processing information access requests.

The systems documentation provided for SAS and FREEDOMS was limited and in most cases did not illustrate any linkage to systems development or project management methodologies. For example, requirements-gathering documentation did not indicate a thorough analysis to identify and prioritize user requirements or engage with stakeholders. There were no benefit and cost analyses, risk assessments, or change control documentation for SAS and FREEDOMS. Also absent was documentation illustrating the use of quality assurance testing or appropriate control gates during the course of development and implementation. Control gates provide management the opportunity to review progress and challenge project teams to verify that they understand what the users want before proceeding forward.

Most IPS divisions and branches use either SAS or FREEDOMS to perform their work. IPS staff members commented that they were not part of the planning stages, nor were they consulted prior to finalizing the essential requirements for both systems. As a result, SAS users complained that the system lacks ease of use, access, and search capabilities, and FREEDOMS users indicated that the system is not intuitive and has imaging problems.

Problems experienced by SAS and FREEDOMS users could have been prevented if AAS management had enforced the use of systems development and project management methodologies. Instead, management focused on moving forward with upgrades to satisfy the requests of IPS management. Most recently, for example, the FREEDOMS project team performed data migration from FREEDOMS to FREEDOMS 2, the latest version of the system. The pressure to transition all users to the upgraded system resulted in the project team's spending

⁸ According to the National Institute of Standards and Technology Special Publication No. 800-64, a systems development life cycle process defines the recommended procedure by which an organization envisions, defines, builds, deploys, operates, and maintains its systems and applications.

months in a data migration cleanup effort, because a large portion of the data from FREEDOMS did not fit correctly into FREEDOMS 2. To complicate matters, one IPS branch reverted to using the previous version of FREEDOMS to perform its required core FOIA function. Although AAS staff members are unable to quantify the cost of these system efforts, their time would have been better spent working on new projects rather than on correcting mistakes.

AAS has recently drafted a systems development life cycle methodology manual for future development activities. AAS management has requested staff to adopt the methodology for current enhancements for SAS and FREEDOMS 2. As such, project teams are creating some of the required systems documentation after the fact. Although developing documentation in a piecemeal fashion may satisfy the request of management, it does not provide assurance that SAS and FREEDOMS are meeting the needs of users.

Recommendation 36: The Bureau of Administration should postpone all development and enhancement activities for the State Archiving System and the Freedom of Information Document Management System in the Office of Information Programs and Services until the bureau has completed all required systems documentation, including user requirements, benefit and cost analyses, risk assessments, and change control documentation, and has obtained all appropriate management and user acceptance approvals. (Action: A)

Recommendation 37: The Bureau of Administration should implement a plan for the Office of Information Programs and Services' Archiving and Access Systems Management division to meet with all users of the State Archiving System and the Freedom of Information Document Management System to identify all critical and core system requirements and address them in the upgrade efforts of both systems. (Action: A)

Single Information Technology Services Provider

GIS plans to make AAS its single information technology services provider. However, the level of communication and planning by AAS needs significant improvement and calls into question the justification for the proposed consolidation.

AAS management says the consolidation of information technology support services will leverage expertise in this area, promote cost savings, and consolidate contracts. Once GIS completes information technology operations consolidation, AAS and the Resource Management division will merge and report directly to the deputy assistant secretary.

The OIG team questions the decision to consolidate information technology support functions under AAS for all of GIS. Currently, the Office of Global Publishing Solutions (GPS) and the Office of Directives Management (DIR) receive information technology support from the Office of Information Technology Services, which provides favorable customer support with minimal cost and resources needed. No one provided the OIG team with documentation demonstrating the benefits gained by changing the information technology support provider from the Office of Information Technology Services to AAS. Further, project documentation pertaining to the planning for the consolidation effort was insufficient. The documentation did not show an analysis of GPS's and DIR's work processes, assessment of requirements needed to support those processes, or an evaluation of information technology personnel and their skill sets

to support the required work. In addition, there was no evidence of regular communication among AAS, GPS, and DIR management to discuss the effort. In fact, during the course of the inspection, many of the regularly scheduled biweekly meetings did not take place.

AAS did not document key stakeholders supported by GPS and DIR. With GPS and DIR providing services to support the work of the Secretary of State, an understanding of their customer base is critical. Information technology contract and funding mechanisms are also unclear. Although there is no detailed timeline for the consolidation of information technology services, the OIG team was told of plans to have the information technology support functions for GPS and DIR consolidated by the end of June 2012, to coincide with the ending of one particular information technology contract. Also unresolved is the issue of how AAS will provide support services, if at all, for the international component of GPS's operations. AAS management remains undecided on this point, because it does not know how overseas posts charge information technology-related costs.

Recommendation 38: The Bureau of Administration should postpone the consolidation of information technology support services for the entire Office of Global Information Services until the bureau has completed an analysis of the benefits of such consolidation from cost, resources, funding, and customer service perspectives. (Action: A)

The completion of project management documentation, along with continuous communication with GPS and DIR management and staff, is key to ensuring a smooth transition of support services. The offices involved can set a transition date only once all key players complete such documentation and reach agreement. Using the end date of an information technology contract to determine when AAS will start supporting GPS and DIR is no substitute for a well-considered plan.

Recommendation 39: The Bureau of Administration should complete and document the Office of Global Publishing Solutions' and the Office of Directives Management's requirements, work processes, and workflows, as well as the effect of consolidation on information technology personnel and funding, before the bureau moves forward with the consolidation of information technology support services. (Action: A)

Information Technology Inventory Management

AAS lacks inventory processes and management internal controls, which has resulted in idle equipment and unapproved hardware on its networks. The OIG team identified surplus computer workstations located in one of IPS's annexes, for which AAS management was unable to provide justification. After further research, AAS management determined that staff purchased the equipment prior to the year's Department Global Information Technology Modernization program refresh. In the absence of an accurate inventory, AAS was only able to estimate the levels of idle equipment as between 70 and 125 workstations. Additionally, AAS was using unapproved scanners on its networks. Management explained such use as an oversight on its part and requested approval from the Department's Information Technology Change Control Board, which it received at the end of the OIG inspection. IPS could prevent such instances by implementing a documented inventory process as outlined in 14 FAM 426-429.

~~SENSITIVE BUT UNCLASSIFIED~~

Recommendation 40: The Bureau of Administration should document the Office of Information Programs and Services' information technology inventory process, including roles and responsibilities of personnel and steps for equipment acquisition and reconciliation. (Action: A)

~~SENSITIVE BUT UNCLASSIFIED~~

Security

IPS is located in two General Services Administration-leased buildings (State Annexes 2 and 13) and in the Harry S Truman Building. The leased buildings are lock-and-leave facilities. The Bureau of Diplomatic Security certified the buildings for open storage of information classified at Secret and below. Uniformed protection officers from the Bureau of Diplomatic Security conduct roving patrols and respond to alarms if activated. Two unit security officers administer the IPS security program. A full-time contractor oversees operations at one building, and a GS-09 Civil Service program analyst is responsible for security at the other. The security programs are administered separately, with little communication between the unit security officers.

IPS conforms largely to Department procedural, physical, and technical security policies with the exceptions discussed below. The OIG team found the security incident program exceptionally well managed. The Department has not recorded any security incidents or violations since 2005.

(b) (5)



Recommendation 41: (b) (5)



(b) (5)



Informal Recommendation 10: (b) (5)



(b) (5)



Top Secret Control Officer

IPS has not assigned a unit Top Secret control officer for State Annex 13. One primary Top Secret control officer is on orders to oversee Top Secret document control for State Annex 2 only. These control officers are responsible for properly safeguarding collateral Top Secret material, including its accountability, storage, and transfer, per 12 FAM 512.1-4. State Annex 13 receives Top Secret documents directly from non-Department entities and should have a Top Secret control officer to account for in- and out-bound shipments in accordance with 12 FAM 535.1-2 b.

Recommendation 42: The Bureau of Administration, in coordination with the Bureau of Diplomatic Security, should designate a unit Top Secret control officer for operations at State Annex 13 and provide the designated employee with the required Bureau of Diplomatic Security training. (Action: A, in coordination with DS)

Office of Information Programs and Services Employee Badges

IPS issues office-specific security badges to its own employees. (b) (5)

IPS directs employees to wear the badge in conjunction with Department-issued Personal Identity Verification and Facility Access Cards. (b) (5)

Issuance of the IPS-specific badges is excessive and a waste of resources. The OIG team consulted with the Bureau of Diplomatic Security on the matter and received confirmation that only official Personal Identity Verification media that are compliant with Homeland Security Presidential Directive 12 can allow access into any Department facility or suite. Although the Department does issue badges for identification of visitors, for subject matter expertise such as official Department photographer and security systems technicians, or for specific events, these badges neither grant access nor serve as substitutes for Department-issued badges.

Although neither Homeland Security Presidential Directive 12 nor Department regulation 12 FAM 371.5 provides specific guidance on issuance of other than Personal Identity Verification identification, the OIG team believes that the intent of the directive is to provide uniformity among Federal agencies in security badge identification. For this and other reasons, the Department converted from the former "blue" badge to the current Personal Identity Verification identification, which has a uniform photo, security clearance, escort status, and personal identification number. These features should be sufficient to allow a Department-affiliated employee justification for access to any particular building within the Department. In addition, the inspection team believes that the Bureau of Diplomatic Security's uniformed protection officer controlling access to a building might concentrate on an employee's activity badge (in this case, the IPS badge) rather than on the Department Personal Identity Verification identification.

Recommendation 43: The Bureau of Administration should eliminate the use of Office of Information Programs and Services employee identification badges and modify the Personal Identity Verification identification media to identify office employee status. (Action: A)

Facility Emergency Action Plan

State Annexes 2 and 13 each have their own domestic emergency action and emergency evacuation plans. The plans are sound, describing actions taken to ensure the safety of IPS employees and protection of property in IPS-occupied space. IPS properly conducts emergency action drills biannually.

Management Controls

Department managers are tasked with establishing cost-effective systems of management controls so that U.S. Government activities are managed effectively and with integrity, according to 2 FAM 021.1. Each manager has a responsibility to design management controls that provide reasonable assurance of the prevention or prompt detection of errors, irregularities, and mismanagement. IPS lacks management oversight and controls in basic procedures and processes, such as time and attendance processing, personnel actions, award nominations, and contract oversight. The lack of such oversight has resulted in widespread problems that require immediate attention.

Time and Attendance

The OIG team reviewed time and attendance records and discovered that IPS was not recording overtime appropriately. According to 4 FAH-3 H-523.2, an appropriate official must authorize premium pay, such as overtime, night, holiday, and Sunday work, in advance and in writing. The assessment showed that employees worked overtime hours but submitted only a few written requests and that immediate supervisors, rather than a certifying official, approved and certified these same requests. For example, one division did not have appropriate approvals before the employees worked overtime, and the supervisor signed overtime request forms as both the authorizing and certifying officer. Employees made no correction to the original submittal for overtime and included no justification in the request to indicate what specific work they would accomplish during the extra time. (b) (5)

IPS employees said they understood that only specific offices were permitted to request overtime hours and that a senior-level manager granted one division a "blanket overtime authorization" that permitted as much as 15 hours a pay period per employee. Employees also indicated that if they worked more than 15 hours, the claim would not be approved. The absence of a clear overtime policy and inadequate management controls for overtime and leave documentation have led to confusion and lack of accountability among staff.

Recommendation 44: The Bureau of Administration should implement and enforce an overtime policy for the Office of Information Programs and Services staff that requires appropriate documentation and advance approval of overtime. (Action: A)

The OIG team's review of records from 2007 to 2012 showed inconsistencies in approval of the time and attendance reports. Some supervisors did not sign reports in a timely manner, thus requiring subsequent corrections.

Time and attendance records for direct-hire, contractor, and WAE employees are exclusively in paper format and date back to 2005. Maintaining these records in paper is wasteful. It would be more effective for supervisors to validate time and attendance hours in an online system. The Bureau of Administration implemented a successful electronic virtual timecard system, but GIS advised the bureau that the system did not meet its requirements and

therefore opted out. The office could not provide documentation to justify nonparticipation and remains the only office in the Bureau of Administration that does not use the application.

Recommendation 45: The Bureau of Administration should implement a policy requiring the Office of Global Information Services to participate in the bureauwide electronic virtual timecard system program. (Action: A)

Personnel Management: Inadequate Human Capital Planning

IPS does not have a plan to manage retirements and fill vacancies promptly. Since 2009, 69 employees have retired or resigned. Three division head positions and one branch chief position were vacant at the time of the inspection, one since 2007. The deputy director, in addition to his other duties, serves as acting head for all of those offices. This situation is unacceptable. These offices handle a significant part of the workload for IPS and require consistent, full-time leadership. However, IPS used funding for these positions to hire new full-time equivalents at lower grades.

Recommendation 46: The Bureau of Administration should fill the three vacant division positions and the vacant branch chief position in the Office of Information Programs and Services. (Action: A)

IPS employs an unusually large percentage of WAEs and contractors. The presence of these experienced employees, who work under a flexible system, is a source of strength to the organization. However, the OIG team identified multiple occasions when WAEs reached their hour or salary caps, and IPS rehired them under a contract so that they could continue performing the same work. It is not permissible for an employee on a temporary appointment who reaches his or her hourly or salary cap to continue work as a contractor performing the same duties.¹⁰ This practice can result in violations of Federal employee ethical standards and related criminal laws.

Recommendation 47: The Bureau of Administration should cease rehiring when actually employed staff members on contracts after they reach their hour or salary caps. (Action: A)

On average, a WAE employee costs the U.S. Government \$65 per hour. As a contract hire, the same person costs the U.S. Government \$87.65 per hour. IPS could use the difference in labor costs to build a better staffing model that maximizes use of WAEs at the standard pay rate and applies the savings toward full-time equivalent Civil Service positions. Such a plan would allow IPS to continue to employ highly qualified WAEs and to fill key vacant positions in a cost-effective manner.

Recommendation 48: The Bureau of Administration should implement a human capital plan that optimizes use of when actually employed and direct-hire Civil Service employees to provide a sufficient workforce. (Action: A)

¹⁰ See Office of Civil Service Human Resources Management Memorandum, *Employees on Temporary Appointments Working for Contractors*, dated October 27, 2010.

There are imbalances and inconsistencies in IPS's reassigning and hiring of personnel, handling of the student employment program, and performance of other administrative functions, all of which contribute to an appearance of impropriety. Although the OIG team did not obtain clear evidence of the violation of any human resources rules or regulations, several processes require improvement.

At the time of the inspection, three former deputy directors and one former senior advisor of IPS were working as contractors. The common perception among IPS staff is that only certain employees are provided this opportunity. The OIG team found several cases of immediate family members of IPS employees working in the office. Several employees raised the issue of nepotism in questionnaires or interviews with inspectors, and staff thought that family members have an advantage in the office. Some of these same family members were interns in the IPS student program before they received a full-time position with the Department. Under the U.S. Code,¹¹ an employee may not appoint, employ, promote, advance, or advocate for appointment to a Department position any relative of that employee. The U.S. Code also imposes an absolute bar on Federal pay for any relative hired in violation of this prohibition.¹²

Recommendation 49: The Bureau of Administration should examine hiring practices in the Office of Information Programs and Services, deal with any violations appropriately, and issue a notice reminding all office managers that Federal law prohibits nepotism in the workplace. (Action: A)

IPS frequently reassigns staff to respond to surges in workload. On several occasions, IPS detailed employees to another division and later permanently assigned them there without filling the vacant positions they left behind. IPS usually makes these temporary detail assignments or reassignments without providing employees with a statement of their new duties beforehand, as required by 3 FAM 2412.3. Furthermore, IPS's process for notifying employees about reassignments is not consistent; some employees receive notification via a memorandum, whereas others receive verbal or email notification. Frequent and inconsistent reassignment of employees can have a negative affect on performance, career enhancement, and morale.

Recommendation 50: The Bureau of Administration should reconcile the staffing pattern in the Office of Information Programs and Services to verify that each employee fills a current full-time equivalent position and that there is justification for any position that is on hold. (Action: A)

Recommendation 51: The Bureau of Administration should implement a procedure for conducting employee reassignments and details in the Office of Information Programs and Services. (Action: A)

¹¹ 5 U.S.C. § 3110.

¹² 5 U.S.C. § 3110 (c). The language of 3 FAM 8312 a. incorrectly suggests this prohibition applies only to members of an employee's household, but 5 U.S.C. § 3110 (a) (3) defines relatives to include "an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister."

A review of ethics training of top-level management in IPS showed that many managers have not yet completed required training as outlined in Code of Federal Regulations 5 CFR 2638, Subpart G, E.O. 12674, and E.O. 12731. Without such training, managers may lack the skills to deal effectively and appropriately with a variety of issues, including those pertaining to human resources and contracts.

Recommendation 52: The Bureau of Administration should implement a policy requiring all managers in the Office of Information Programs and Services to take the Department of State's required ethics training. (Action: A)

Student Internship Programs

In 2000, the Bureau of Human Resources created the program entitled Success, Today and Tomorrow, Through Training and Recruiting Students. This program is an innovative effort to capture the next generation of talent from universities in the Washington, DC, area. Other programs that create opportunities for students at the Department include the student clerical program and the student career experience program.

In IPS, student employees provide program assistance in many areas, including administering FOIA, reviewing historical records for declassification and release, and responding to public requests. A majority of the students who work in IPS receive full-time Civil Service or Foreign Service jobs directly after completing their internships. The screening process for this program relies on a student coordinator and a group of WAEs to review applications and provide recommendations. After the review panel selects the candidates, the director or deputy assistant secretary for IPS gives final approval. This screening process will change with the implementation of the new Pathway Programs in July 2012, which will allow for a more structured, centralized recruitment and selection process.

Training

IPS does not have an effective training plan. Most training is on the job, and there is little cross-training, even among offices that share staff. Many employees did not receive a general orientation or attend the Civil Service Orientation at the Foreign Service Institute upon entry into service. A review of training records also demonstrated that only a few IPS employees at the GS-13 level and above attended Equal Employment Opportunity training, and many did not have the required leadership training. Without appropriate training for all levels of staff, the organization suffers in terms of employee performance and product quality.

Recommendation 53: The Bureau of Administration should implement a training plan for the Office of Information Programs and Services that clearly identifies training requirements for both supervisors and other employees and includes Equal Employment Opportunity and diversity training as well as leadership courses for each grade level. (Action: A)

Delegation of Authorities

The deputy director and the Resource Management branch chief each monitor 4 of the 13 programs listed in IPS's 2011 Federal Managers' Financial Integrity Act Internal Management

Control review. Key areas, such as the FOIA program, case processing of FOIA and Privacy Act requests, and time and attendance, however, have no backup. This arrangement strains the span of control that two people are capable of exercising, thereby reducing the effectiveness of these programs.

Recommendation 54: The Bureau of Administration should realign internal controls in the Office of Information Programs and Services and designate key personnel for Federal Managers' Financial Integrity Act categories in 2012. (Action: A)

IPS lacks adequate controls for handling the retired records that await destruction at the Washington National Records Center and the Department's Records Center. An estimated 13,000 cubic feet of retired records are past due for destruction. When IPS receives disposal notices for records destruction, it forwards these notices to the respective Department records owners for approval. However, Department offices and bureaus do not always respond in a timely manner, which causes a backlog of records pending destruction.

Recommendation 55: The Bureau of Administration should implement a cost control mechanism for the Office of Information Programs and Services to charge individual Department of State bureaus and offices directly for records stored beyond their life span. (Action: A)

Recommendation 31: The Bureau of Administration should train supervisors and staff on the performance appraisal process and individual development plans and develop a mentoring program for employees. (Action: A)

Recommendation 32: The Bureau of Administration should include the timely preparation of employee appraisals in supervisors' work requirements. (Action: A)

Recommendation 33: The Bureau of Administration should update the position descriptions for position numbers S9017500 and S97068. (Action: A)

Recommendation 34: The Bureau of Administration should implement a plan to clarify standards for the Office of Information Programs and Services' awards program and to set appropriate amounts for cash awards. (Action: A)

Recommendation 35: The Bureau of Administration should realign contracting officer's representative and government technical monitor responsibilities in the Office of Information Programs and Services to improve contract oversight management. (Action: A)

Recommendation 36: The Bureau of Administration should postpone all development and enhancement activities for the State Archiving System and the Freedom of Information Document Management System in the Office of Information Programs and Services until the bureau has completed all required systems documentation, including user requirements, benefit and cost analyses, risk assessments, and change control documentation, and has obtained all appropriate management and user acceptance approvals. (Action: A)

Recommendation 37: The Bureau of Administration should implement a plan for the Office of Information Programs and Services' Archiving and Access Systems Management division to meet with all users of the State Archiving System and the Freedom of Information Document Management System to identify all critical and core system requirements and address them in the upgrade efforts of both systems. (Action: A)

Recommendation 38: The Bureau of Administration should postpone the consolidation of information technology support services for the entire Office of Global Information Services until the bureau has completed an analysis of the benefits of such consolidation from cost, resources, funding, and customer service perspectives. (Action: A)

Recommendation 39: The Bureau of Administration should complete and document the Office of Global Publishing Solutions' and the Office of Directives Management's requirements, work processes, and workflows, as well as the effect of consolidation on information technology personnel and funding, before the bureau moves forward with the consolidation of information technology support services. (Action: A)

Recommendation 40: The Bureau of Administration should document the Office of Information Programs and Services' information technology inventory process, including roles and responsibilities of personnel and steps for equipment acquisition and reconciliation. (Action: A)

Recommendation 41: (b) (5)

Recommendation 42: The Bureau of Administration, in coordination with the Bureau of Diplomatic Security, should designate a unit Top Secret control officer for operations at State Annex 13 and provide the designated employee with the required Bureau of Diplomatic Security training. (Action: A, in coordination with DS)

Recommendation 43: The Bureau of Administration should eliminate the use of Office of Information Programs and Services employee identification badges and modify the Personal Identity Verification identification media to identify office employee status. (Action: A)

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Recommendation 46: The Bureau of Administration should fill the three vacant division positions and the vacant branch chief position in the Office of Information Programs and Services. (Action: A)

Recommendation 47: The Bureau of Administration should cease rehiring when actually employed staff members on contracts after they reach their hour or salary caps. (Action: A)

Recommendation 48: The Bureau of Administration should implement a human capital plan that optimizes use of when actually employed and direct-hire Civil Service employees to provide a sufficient workforce. (Action: A)

Recommendation 49: The Bureau of Administration should examine hiring practices in the Office of Information Programs and Services, deal with any violations appropriately, and issue a notice reminding all office managers that Federal law prohibits nepotism in the workplace. (Action: A)

Recommendation 50: The Bureau of Administration should reconcile the staffing pattern in the Office of Information Programs and Services to verify that each employee fills a current full-time equivalent position and that there is justification for any position that is on hold. (Action: A)

Recommendation 51: The Bureau of Administration should implement a procedure for conducting employee reassignments and details in the Office of Information Programs and Services. (Action: A)

Recommendation 52: The Bureau of Administration should implement a policy requiring all managers in the Office of Information Programs and Services to take the Department of State's required ethics training. (Action: A)

Recommendation 53: The Bureau of Administration should implement a training plan for the Office of Information Programs and Services that clearly identifies training requirements for both supervisors and other employees and includes Equal Employment Opportunity and diversity training as well as leadership courses for each grade level. (Action: A)

Recommendation 54: The Bureau of Administration should realign internal controls in the Office of Information Programs and Services and designate key personnel for Federal Managers' Financial Integrity Act categories in 2012. (Action: A)

Recommendation 55: The Bureau of Administration should implement a cost control mechanism for the Office of Information Programs and Services to charge individual Department of State bureaus and offices directly for records stored beyond their life span. (Action: A)

List of Informal Recommendations

Informal recommendations cover operational matters not requiring action by organizations outside the inspected unit and/or the parent regional bureau. Informal recommendations will not be subject to the OIG compliance process. However, any subsequent OIG inspection or on-site compliance review will assess the mission's progress in implementing the informal recommendations.

Informal Recommendation 1: The Bureau of Administration should not assign Office of Information Programs and Services staff members to other organizations until that office has reduced its backlog of Freedom of Information Act cases.

Informal Recommendation 2: The Bureau of Administration should implement a process to provide periodic updates highlighting common errors and best practices to guide Freedom of Information Act case analysts and liaisons in the Office of Information Programs and Services.

Informal Recommendation 3: The Bureau of Administration should schedule additional appeals panel meetings throughout the year to expedite the Freedom of Information Act appeals process.

Informal Recommendation 4: The Bureau of Administration should provide guidance and the necessary resources for the Office of Information Programs and Services' Freedom of Information Act program manager to improve Act-related efforts throughout the Department of State via training, updates, and systemic changes.

Informal Recommendation 5: The Bureau of Administration should provide the Office of Information Programs and Services with high-speed copy machines to facilitate the workflow until the office can implement a greener solution.

Informal Recommendation 6: The Bureau of Administration should develop an interim read file of the most recent declassification guidance for distribution to all declassification reviewers in the Office of Information Programs and Services' Systematic Review Program division.

Informal Recommendation 7: The Bureau of Administration should analyze the effect of the increased cost of electronic acquisitions in the Ralph J. Bunche Library so that Department of State leadership can make an informed decision about appropriate funding levels for the library.

Informal Recommendation 8: The Bureau of Administration should enroll the Office of Information Programs and Services' resource management program analyst in financial management training.

Informal Recommendation 9: The Bureau of Administration should implement a policy that requires the Office of Information Programs and Services to review its telework agreements annually.

Informal Recommendation 10: (b) (5)

Principal Officials

	Name	Arrival Date
Deputy Assistant Secretary	Margaret P. Grafeld	09/10
Director, A/GIS/IPS	Sheryl L. Walter	12/11
Deputy Director, A/GIS/IPS	Alex Galovich	12/09
Division Chiefs		
Records and Archives Management Division	Tasha Thian	08/07
Resource Management Staff	Crystal Abrams	01/10
Diplomatic Research Services	Alex Galovich, Acting	12/09
Privacy Division	Christina Jones	01/11
Requester Liaison Division	Rosemary Reid	06/11
Programs and Policies Division	Alex Galovich, Acting	06/11
Statutory Compliance and Research Division	Patrick Scholl	10/10
Archiving and Access Systems Management Division	Andrew Blumenthal	06/11
Ralph J. Bunche Library	Hugh Howard	12/11
Systematic Review Program	Alex Galovich, Acting	04/12

Abbreviations

AAS	Archiving and Access Systems Management division
Department	U.S. Department of State
DIR	Office of Directives Management
E.O.	Executive Order
FAH	<i>Foreign Affairs Handbook</i>
FAM	<i>Foreign Affairs Manual</i>
FISMA	Federal Information Security Management Act
FOIA	Freedom of Information Act
FREEDOMS	Freedom of Information Document Managing System
GIS	Global Information Services
GPS	Office of Global Publishing Solutions
IPS	Office of Information Programs and Services
ISOO	Information Security Oversight office
OIG	Office of Inspector General
PII	Personally identifiable information
PRV	Privacy division
SAPP	Senior advisor for privacy policy
SMART	State Messaging and Archival Retrieval Toolset
WAE	When actually employed

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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.

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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

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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

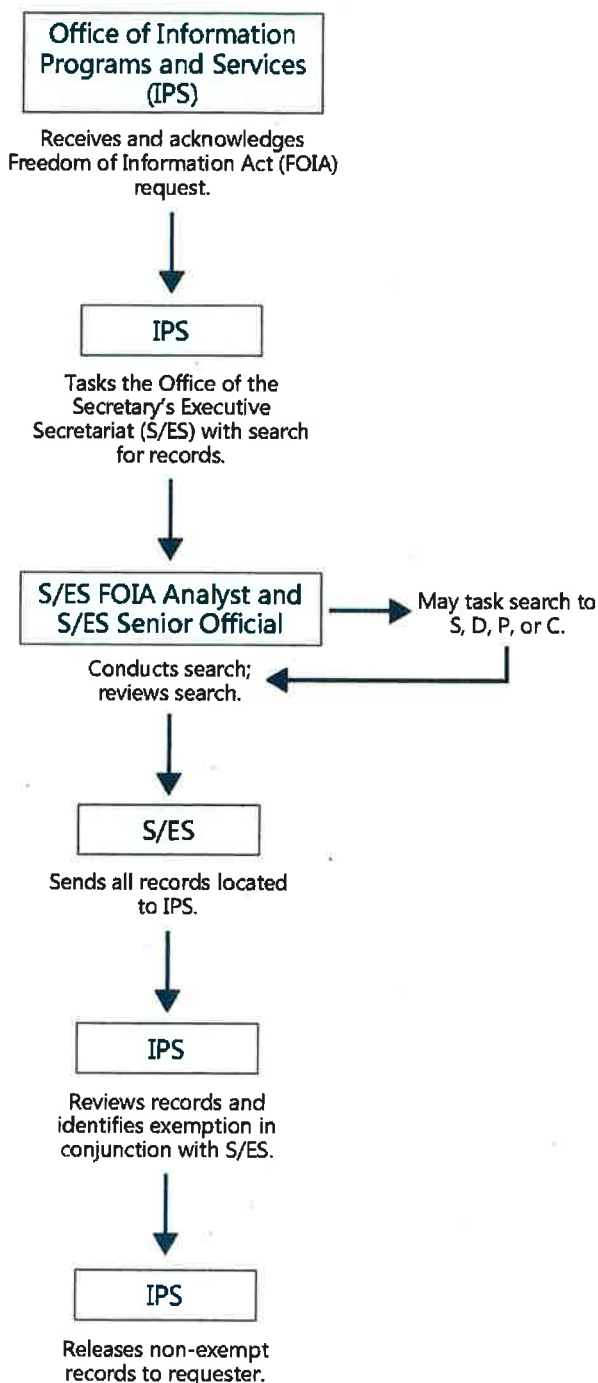
Once the search office returns responsive records to IPS, IPS determines their relevance to the request and whether any part of them may be released to the requester or whether they are subject to one of FOIA's exemptions.¹⁹ IPS then prepares the formal response to the requester and includes any responsive 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.

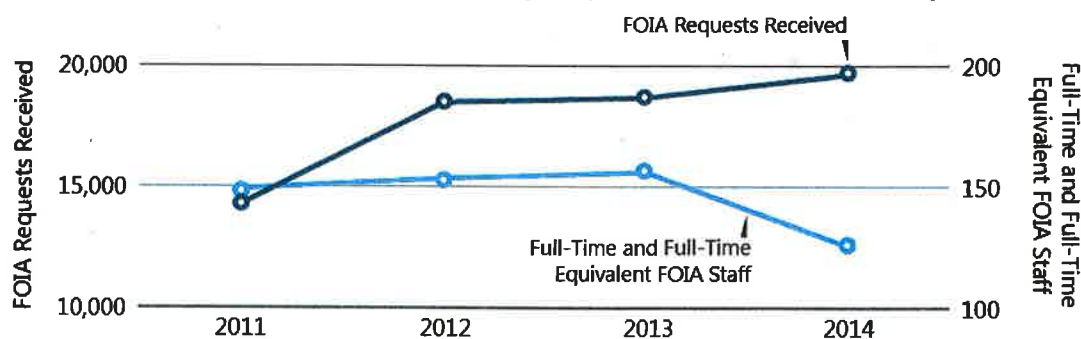
Table 1: Processing Time for FOIA Requests Related to Recent Secretaries of State

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

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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

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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

OIG EVALUATIONS AND SPECIAL PROJECTS TEAM

Jennifer L. Costello, Team Leader

David Z. Seide, Team Leader

Michael Bosserdet, Office of Inspections

Kelly Minghella, Office of Investigations

Brett Fegley, Office of Inspections

Aaron Leonard, Office of Audits

Robert Lovely, Office of Evaluations and Special Projects

Jeffrey McDermott, Office of Evaluations and Special Projects

Kristene McMinn, Office of Inspections

Eric Myers, Office of Investigations

Phillip Ropella, Office of Audits

Timothy Williams, Office of Inspections



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ESP-16-03

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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May 2016

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).

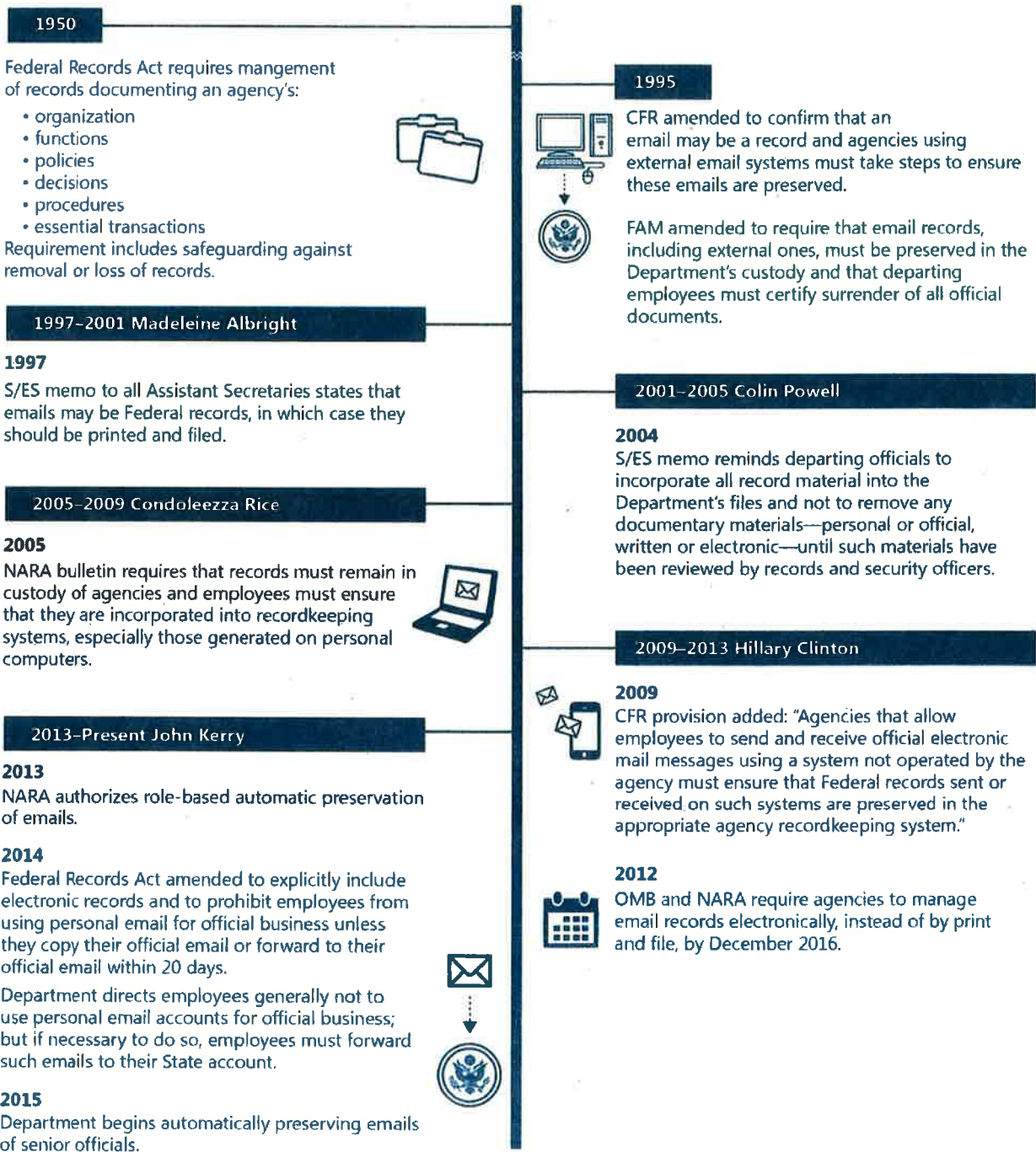
¹⁶ 44 U.S.C. § 3101.

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).

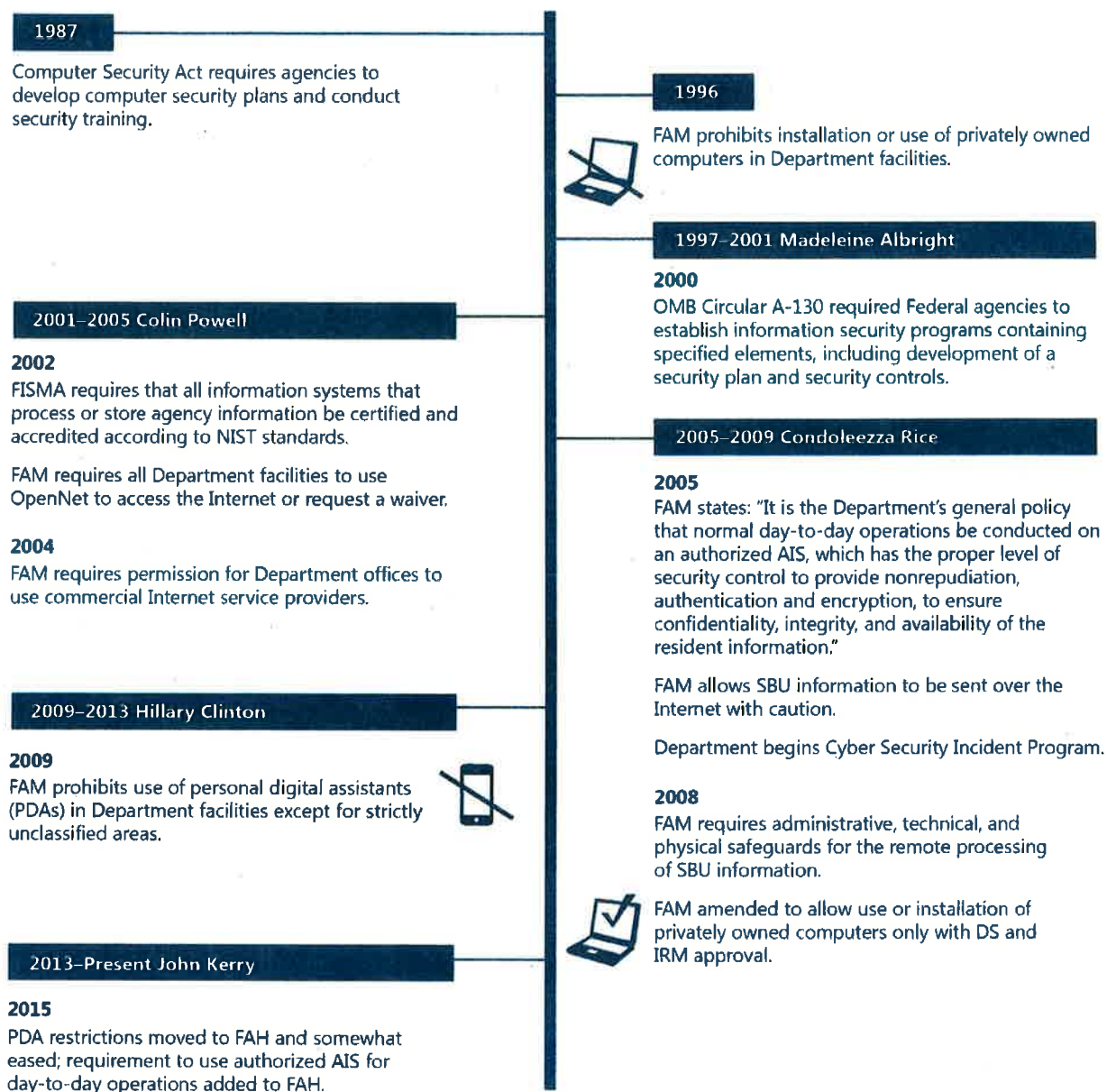
In 2007, the Department adopted additional policies to implement these requirements, including numerous provisions intended to ensure that non-Departmental information systems that process or store Department information maintain the same minimum security controls. Further, non-Departmental systems that 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 AIDACs) 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 are 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

OIG TEAM MEMBERS

Jennifer L. Costello, Team Leader, Office of Evaluations and Special Projects

David Z. Seide, Team Leader, Office of Evaluations and Special Projects

Jeffrey McDermott, Office of Evaluations and Special Projects

Robert Lovely, Office of Evaluations and Special Projects

Michael Bosserdet, Office of Inspections

Brett Fegley, Office of Inspections

Kristene McMinn, Office of Inspections

Timothy Williams, Office of Inspections

Aaron Leonard, Office of Audits

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UNITED STATES DEPARTMENT OF STATE

Department Notice



Office of Origin: A
Announcement Number: 2009_03_082
Date of Announcement: March 16, 2009

Message from the Secretary on FOIA

On his first full day in office, President Barack Obama signed two memoranda on openness in government – one ushering in a new era of transparency in government, the other ordering a presumption of disclosure in the implementation of the Freedom of Information Act (FOIA). The State Department will be at the forefront of making this commitment a reality. Former Secretary of State and President James Madison was a strong champion for an informed citizenry. On March 16 – President Madison’s birthday – we will honor his commitment to transparency and openness as we celebrate Freedom of Information Day.

We should have no doubt about the public’s interest in our work. Millions of pages of historical foreign policy records are declassified each year and transferred to the National Archives, where they are second only to genealogical records as the most researched of all collections. Every year, we process more than 6,000 requests for disclosure.

As a Department, we should respond to requests in a timely manner, resolve doubts in favor of openness, and not withhold information based on speculative or abstract fears. Preserving the record of our deliberations, decisions, and actions will be at the foundation of our efforts to promote openness. At the same time, the exigencies of diplomacy, the concerns of our foreign partners, and national security interests may sometimes limit the degree to which we can be completely transparent about our current activities. We need every Department employee to manage the challenge of informing the public and protecting information in a way that fulfills the President’s strong commitment to transparency.

Copies of the President’s memoranda and further information regarding the Department’s FOIA Program, the availability of our records, and our information assets may be found at www.foia.state.gov.

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B

UNITED STATES DEPARTMENT OF STATE

Department Notice



Office of Origin: D-MR
Announcement Number: 2016_01_109
Date of Announcement: January 21, 2016

Message from the Secretary on FOIA

As public servants, each of us has a responsibility to maintain records that are important for ourselves, for the public, and for the historical record. Like all of you, I have immense pride for the work our Department carries out every day advancing America's foreign policy. The documentation of our work is one of our most valuable assets. Transparency is a cornerstone of the State Department's mission and every one of us is a steward of history.

The Freedom of Information Act is one of the primary ways by which we demonstrate our commitment to these principles. President Obama emphasized the importance of the FOIA in his Open Government plan as a way to not just promote transparency, but also to build trust between the government and its citizens.

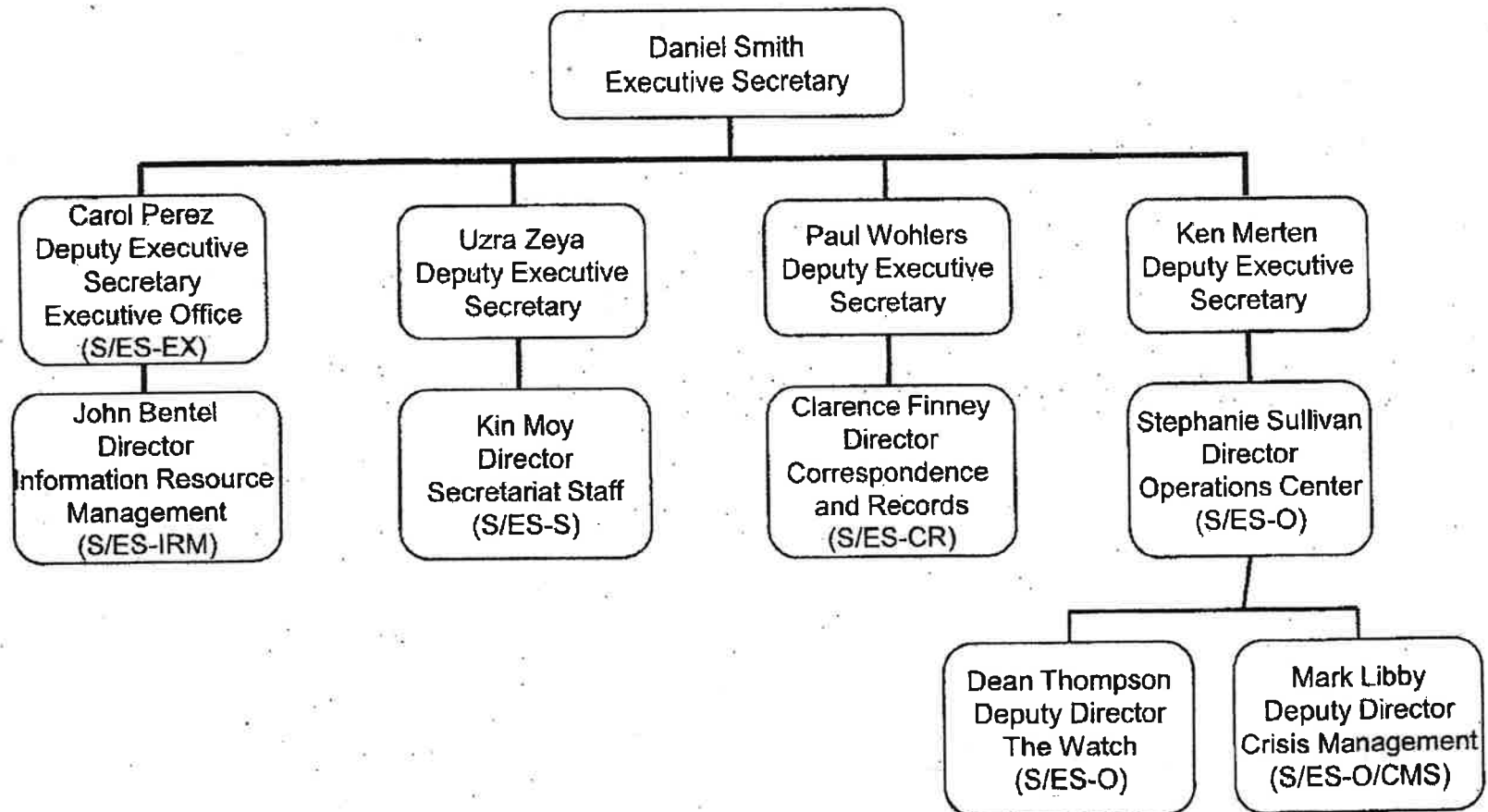
That's why, to implement the President's directives regarding electronic records management, the Department has launched a number of initiatives, including the Knowledge Management project and the Electronics Records Management Working Group. And last year, I asked the Office of Inspector General to review the Department's FOIA and records management practices, and I appointed Ambassador Janice Jacobs as our Transparency Coordinator to spearhead improvements and reforms.

Today, I ask each of us to recommit to fulfilling our responsibilities under the FOIA. Everyone has a role to play in improving the FOIA process. For all bureaus, offices, and overseas posts, I ask for your help in ensuring timely, complete responses to FOIA taskers. Delayed or incomplete responses can result in litigation and the perception that the Department does not take transparency seriously. The opposite is the case; we are proud of our work and should strive to share it. With the help of each of you, the Department will be able to tell our story through an efficient, more transparent FOIA process.

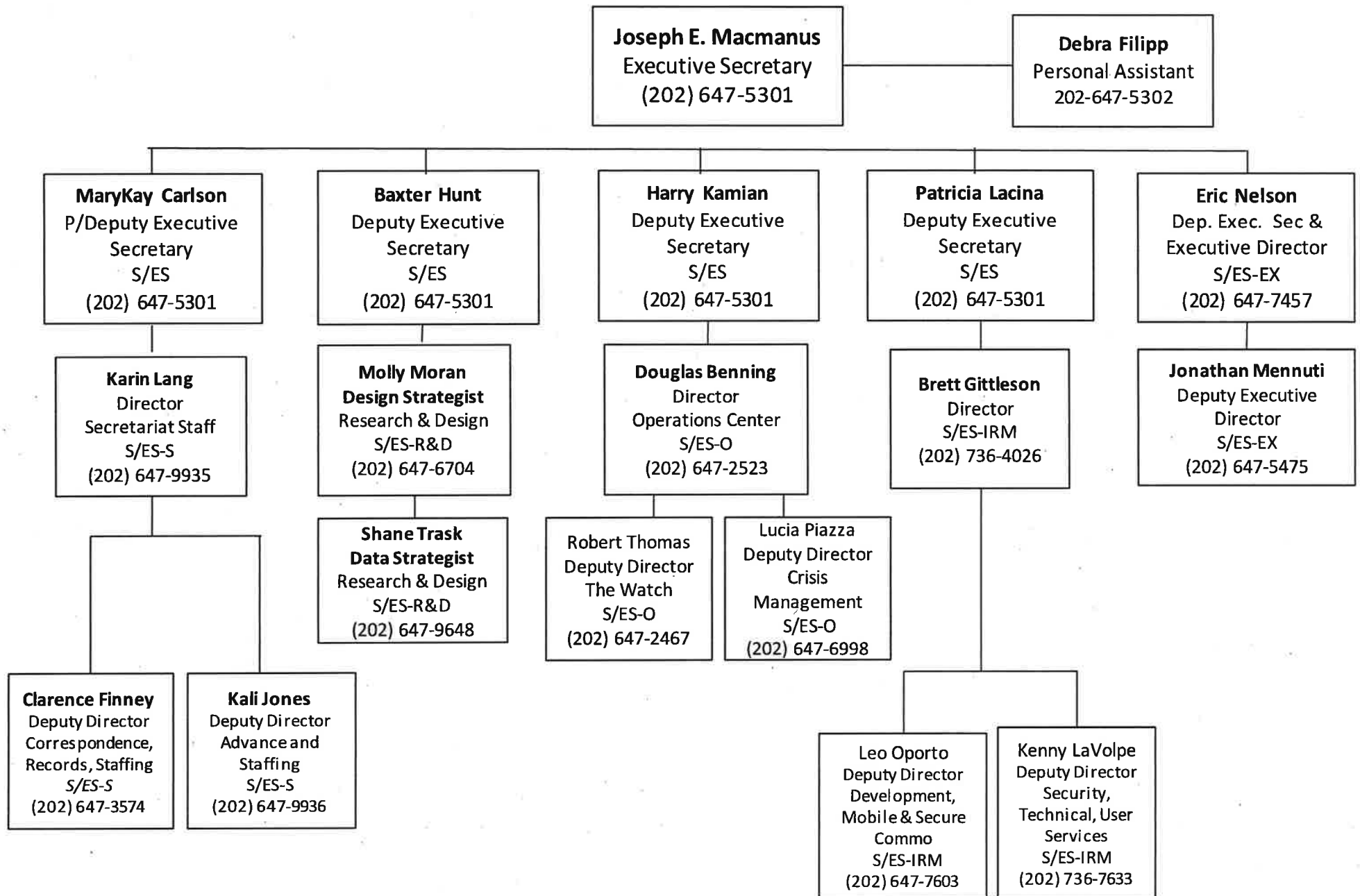
More information about our individual responsibilities under the Freedom of Information Act, the Department's FOIA program, the availability of our records, and our information assets, go to www.foia.state.gov.

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**EXECUTIVE SECRETARIAT (S/ES)
MANAGEMENT
ORGANIZATIONAL CHART**

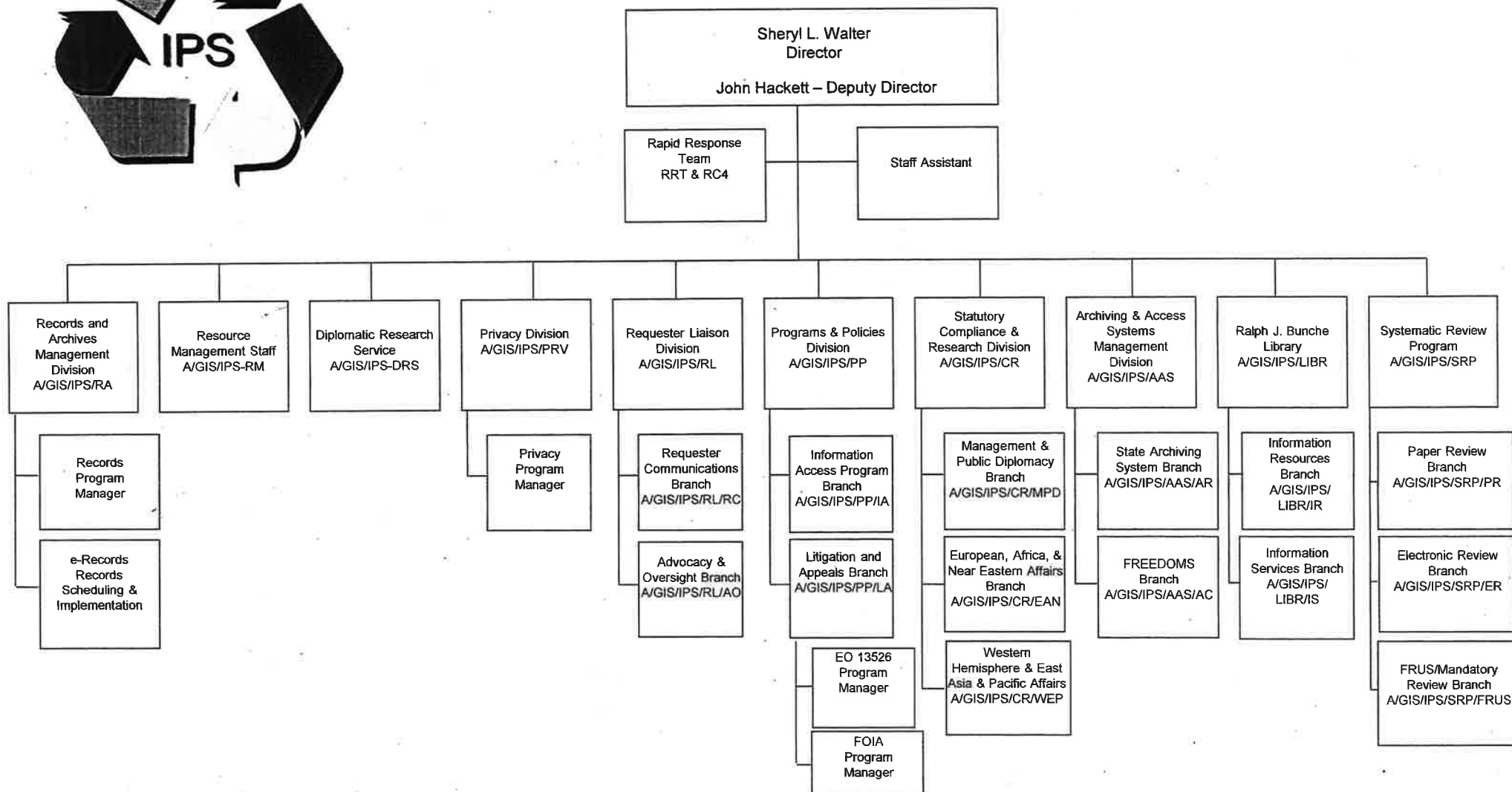


S/ES Organizational Chart (Management)

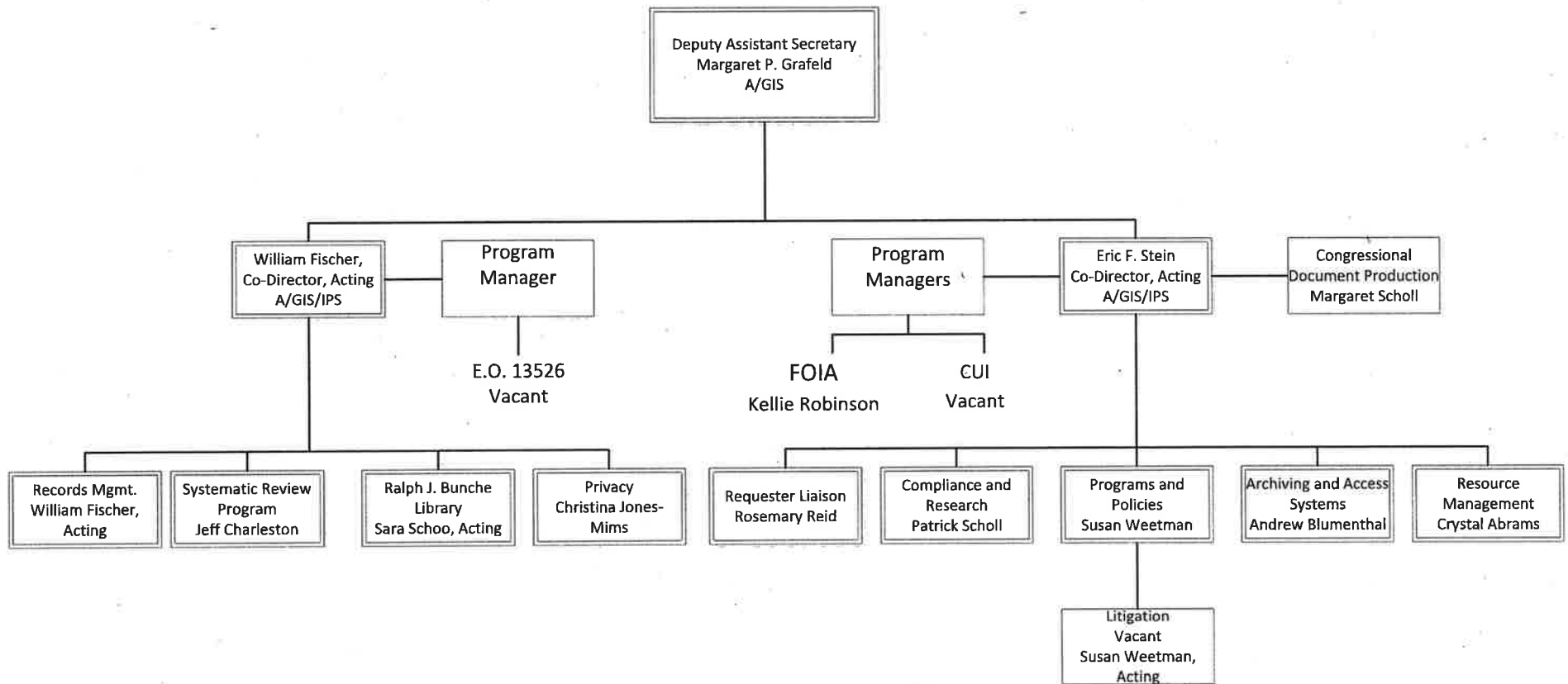




Office of Information Programs and Services A/GIS/IPS



Information Programs and Service (A/GIS/IPS)



Effective May 15, 2016

1 FAM 022 OFFICE OF THE SECRETARY OF STATE (S)

1 FAM 022.1 Chief of Staff (S/COS)

(TL:ORG-104; 06-30-2001)

The Chief of Staff:

- (1) Reports directly to the Secretary of State (S);
- (2) Performs such managerial and policy duties as the Secretary directs; and
- (3) Works closely with the Executive Secretary (S/ES), as required.

1 FAM 022.2 Executive Secretariat (S/ES)

(CT:ORG-231; 09-27-2010)

- a. The Special Assistant to the Secretary and Executive Secretary of the Department, with rank administratively equivalent to an Assistant Secretary, ensures the prompt, efficient, and orderly staffing of policy problems requiring the attention of the Secretary (Deputy and Under Secretaries) in the coordination of material presented to them and the implementation of decisions made by them.
- b. The Executive Secretariat also:
 - (1) Directs and controls official action, briefing, and information documents to and from the Secretary (Deputy and Under Secretaries) and ensures implementation of decisions made by them;
 - (2) Serves as the official channel for the transmission of information and recommendations from the Department to the White House and other U.S. Government departments and agencies;
 - (3) 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;
 - (4) Coordinates the Department's role in the National Security Council (NSC) system. S/ES provides guidance and support to bureaus on the functions of the interagency system;
 - (5) Coordinates the Department's role in the cabinet system including meetings of the cabinet and cabinet councils: tasks and reviews papers required for these meetings;
 - (6) Serves as focal point within the Department in alerting officials to the emergence of crises, ensures prompt action to deal with them, and effects coordination with other agencies; and

- (7) Ensures that documents addressed to the principals have received adequate staff review.

1 FAM 022.2-1 Executive Office (S/ES-EX)

(TL:ORG-104; 06-30-2001)

The Executive Office 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. This office provides logistical support for official travel by the Secretary and other Department principals.

1 FAM 022.2-2 Executive Secretariat Staff (S/ES-S)

(CT:ORG-313; 07-16-2013)

The Executive Secretariat Staff:

- (1) Coordinates, tasks, tracks, and reviews briefing papers, memoranda, diplomatic notes, and correspondence for the Secretary, both Deputy Secretaries, the Under Secretary for Political Affairs, the Counselor, and the White House;
- (2) Ensures proper record management of documents for Department principals, as well as retrieval of archived documents upon request;
- (3) Drafts pre-approved language for use by the Department of State when replying to messages from world leaders addressed to the President and the Secretary, as well as replies to ceremonial messages;
- (4) Coordinates preparations for international conferences, high level visits, and other major meetings in which the Secretary, Deputy Secretaries, and Under Secretary for Political Affairs participate;
- (5) Tasks, prepares, and reviews briefing materials for official overseas and domestic travel of the Secretary;
- (6) Advances the Secretary's official overseas and domestic travel; staffs the Secretary's mobile office when on official travel.
- (7) Tasks, prepares, and reviews the briefing materials for the official travel abroad of the Deputy Secretaries and Under Secretary for Political Affairs;
- (8) Maintains CONTAX database on foreign chiefs of state, other foreign government officials; American and foreign ambassadors; ecclesiastical and academic personages; and Cabinet members and

other high-level USG and foreign officials for use by the Department of State and other selected U.S. Government users;

- (9) Provides guidance on correspondence and briefing materials for desk officers and bureau staff;
- (10) Coordinates State Department participation in Principals Committee (PC), Deputies Committee (DC), NSC, NEC, and cabinet meetings, and tasks and reviews briefing papers for these meetings as needed; and
- (11) Organizes special events such as Chiefs of Mission conferences, town hall meetings, and special ceremonies for Department of State principals, and works on other special projects for principals, as required.

b. S/ES-S is comprised of two divisions. The

- (1) Secretarial Advance and Staffing Division; and
- (2) Correspondence, Records, and Staffing Division.

1 FAM 022.2-3 Operations Center (S/ES-O)

(CT:ORG-313; 07-16-2013)

The Operations Center:

- (1) Is the Department of State's around-the-clock alerting, briefing, and crisis management office;
- (2) By maintaining a 24-hour global watch, alerts and briefs top officers of the Department, task forces, and concerned Department bureaus on important developments requiring immediate attention, and ensures that prompt action is taken, as necessary;
- (3) Functions as the Department's point of contact for the interagency exchange of crisis-related information, including the compilation of current information on the number of official and private American citizens and third-country nationals present in each country abroad;
- (4) Screens and distributes cables and other documents for the Secretary and principal officers and is responsible for the preparation of daily summary reports;
- (5) Controls, on behalf of the Executive Secretary, sensitive categories of telegraphic traffic which are sensitive in content or timing;
- (6) Provides crisis management support to the Department. Under authority delegated by the Secretary, with the policy guidance of the Under Secretaries for Political Affairs and Management, and at the direction of the Executive Secretary, S/ES-O has the principal

Department responsibility for initial formal and informal crisis management operations. Under authority assigned by Presidential Directive 27 (1/19/78), S/ES-O assumes initial action responsibility on asylum requests, acts of terrorism/hijackings, and other nonmilitary incidents which could have implications for our foreign relations;

- (7) Has responsibility for testing and assessment of the Department's crisis management capabilities;
- (8) Coordinates planning and implementation of plans within the Department and the interagency community, through the Washington Liaison Group for the protection and evacuation of U.S. citizens abroad in emergencies;
- (9) Serves as primary point of contact and support office for the Secretary of State and the Secretary's party when traveling;
- (10) Provides full-time support for task forces convened by the Executive Secretary in response to international crises; and
- (11) Monitors events that threaten the security of the U.S. missions, their personnel, and private U.S. citizens abroad, and provides briefs to Department principals and the interagency community on developing situations.

1 FAM 022.2-4 Information Resources Management Office (S/ES-IRM)

(CT:ORG-313; 07-16-2013)

The Information Resources Management Office (S/ES-IRM) develops, implements, and operates all information management and records management systems for the Secretary, the Deputy Secretary, the Under Secretaries, the Counselor, the Executive Secretariat, and other specific offices.

1 FAM 214.2 Office of Information Programs and Services (A/GIS/IPS)

(CT:ORG-326; 01-13-2014)

- a. The Office of Information Programs and Services (A/GIS/IPS) serves as the primary point of contact and principal advisor on all matters concerning the management of information as a critical resource specifically relating to records life-cycle management, public and need-to-know access to information, classification management and declassification, privacy, research of official record and public information resources, and corporate records archives.
- b. A/GIS/IPS plans, develops, implements and evaluates information and records-related 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. These include the Federal Records Act (FRA), the Freedom of Information Act (FOIA) and electronic FOIA (EFOIA) provisions, the Privacy Act, [22 U.S.C. 4354](#) (pertaining to document production for the Congress and the Foreign Relations of the United States (FRUS) series acceleration), Executive Order (E.O.) 13526 concerning national security information, relevant portions of the E-Government Act of 2002, Office of Management and Budget (OMB) Circular A-130, covering information resources management, pertinent successor mandates in this area and [E.O. 13392](#) concerning improving agency disclosure of information.
- c. A/GIS/IPS advises A/GIS on issues concerning the Department's compliance with the requirements of the FOIA.
- d. A/GIS/IPS serves as the Secretary's delegated records authority with responsibility for implementing all aspects of the Federal Records Act. As such, A/GIS/IPS ensures Department-wide compliance with the life-cycle management of all Department records. This includes Department-wide documentation and preservation of the execution of the foreign relations of the United States.
- e. A/GIS/IPS exercises primary responsibility for the official corporate records archives (Central Foreign Policy Records), which includes the State archiving system (SAS), in addition to office, post, and lot files.
- f. A/GIS/IPS serves as the Secretary's representative to the Archivist of the United States and the National Archives and Records Administration (NARA), as well as to other Federal and regulatory agencies on all records issues.
- g. A/GIS/IPS promotes the integration of life-cycle management principles in the Department's business and operations, particularly in the development and application of new technology.
- h. A/GIS/IPS administers the Department's Information Access Program, both for the need-to-know foreign affairs and national security community in executive agencies and the Congress and for the public, in response to the FOIA, Privacy Act, Ethics in Government Act, [E.O. 13526](#), [22 U.S.C. 4354](#), discovery orders, subpoenas, and other special document production demands. A/GIS/IPS ensures that responses to such requests are timely, accurate, and complete.
- i. As delegated by the Secretary through the Under Secretary for Management, A/GIS/IPS ensures implementation of and compliance with the classification management and declassification requirements of [Executive Order 13526](#).

- j. A/GIS/IPS responds to administrative appeals, as required, under statutory, regulatory, and Executive order requirements. A/GIS/IPS executes affidavits and provides supporting evidence to the [Department of Justice](#) in defense of the Department in records-related lawsuits.
- k. A/GIS/IPS administers the Department's Privacy Program as the Privacy Coordinator to ensure compliance with the Privacy Act and the safeguarding of the privacy of U.S. citizens and aliens admitted for permanent residence to the United States in their interaction with the Department and adherence to established privacy policies and procedures.
- l. A/GIS/IPS provides technical support and expertise to the Privacy Protection Governance Board in its development of Department-wide privacy policy.
- m. A/GIS/IPS manages the Department's Library, a unique foreign policy collection. The library develops, administers, and promotes a desktop electronic capability for accessing this collection and numerous other data sources and services.
- n. A/GIS/IPS coordinates special document production efforts to ensure the Secretary's compliance with court orders, Congressional subpoenas, and other similarly mandated demands.
- o. A/GIS/IPS develops, operates, maintains, evaluates, and enhances those systems that archive the corporate records archives and for the information access and declassification programs, as well as unique business applications related to the office's mission.
- p. A/GIS/IPS promotes customer service principles within the office and institutes initiatives to comply with applicable laws, regulations, and policies regarding customer service standards.

1 FAM 214.2-1 Requester Liaison Division (A/GIS/IPS/RL)

(CT:ORG-210; 05-01-2009)

- a. The Requester Liaison Division (A/GIS/IPS/RL) serves as the primary point-of-contact for customers in matters pertaining to records life-cycle management, public and need-to-know access to information, classification management and declassification, privacy, research of official records and public information resources, and corporate records archives.
- b. A/GIS/IPS/RL evaluates all customers' inquiries and initiates the processing of all actions pertaining to records life-cycle management, public and need-to-know access to information, classification management and declassification, privacy, research of official records and public information resources, and corporate records archives. The division monitors the progress of all inquiries to ensure that all actions taken are timely, accurate, complete, and responsive.
- c. A/GIS/IPS/RL evaluates and ensures compliance with applicable laws, regulations, and policies regarding customer service standards and the Government Performance and Results Act (GPRA), and actively promotes efforts for customer service.

1 FAM 214.2-2 Programs and Policies Division (A/GIS/IPS/PP)

(CT:ORG-326; 01-13-2014)

- a. The Programs and Policies Division (A/GIS/IPS/PP) implements the [E.O. 13526](#) classification management program, including access to information by former presidential appointees, and the information access program for documents requested pursuant to the Freedom of Information Act (FOIA). In this capacity, A/GIS/IPS/PP performs the functions enumerated in paragraphs b through e of this section.
- b. A/GIS/IPS/PP analyzes, evaluates, and oversees programs, activities, and operations. A/GIS/IPS/PP provides expert advice and counsel to officials at all levels. A/GIS/IPS/PP institutes policies, practices, procedures, guidelines, and regulations while ensuring the integration of requirements in operations and activities. It conducts comprehensive and extensive education and outreach initiatives. It coordinates issues with other agencies, particularly with the [Department of Justice](#), and the national security community. It develops position papers on a range of information topics, including proposed legislative and regulatory changes. A/GIS/IPS/PP represents the bureau and the Department at inter-agency and public forum and working groups.
- c. A/GIS/IPS/PP ensures, through outreach and coordination, that the operations and activities of the Statutory Compliance and Research Division are consistent with program management requirements.
- d. A/GIS/IPS/PP fulfills official requests from Congress, former presidential appointees, judicial authorities, and other U.S. government agencies for document production.
- e. A/GIS/IPS/PP coordinates the Department's responses to appeals of denial of access to information under provisions of the FOIA, Privacy Act, or [E.O. 13526](#), or the refusal to amend records under the Privacy Act.

1 FAM 214.2-3 Statutory Compliance and Research Division (A/GIS/IPS/CR)

(CT:ORG-326; 01-13-2014)

- a. The Statutory Compliance and Research Division (A/GIS/IPS/CR) implements statutes, access responsibilities and classification review through multifunctional and inter-disciplinary team-oriented branches organized geographically and functionally, as described in paragraphs b and c of this section.
- b. A/GIS/IPS/CR performs systematic, comprehensive, and complex searches for information based on the entire range of document production and research requests. A/GIS/IPS/CR analyzes content of requests to determine appropriate sources of records from the corporate records archives and those records under the purview of the Executive Secretariat, retired office and post files, and transferred records located in the National Archives.
- c. A/GIS/IPS/CR administers the Department's statutory responsibilities in providing public access to information under the FOIA, Privacy Act, [E.O. 13526](#), and the Ethics in Government Act. It coordinates with regional and functional bureaus to respond to public requests for records maintained in the Department and at posts.

1 FAM 214.2-4 The Library Division (A/GIS/IPS/LIBR)

(CT:ORG-210; 05-01-2009)

- a. The Library Division (A/GIS/IPS/LIBR) develops, administers, and operates the Department's central library, the Ralph E. Bunche Library. As the premier library resource in the foreign affairs area, this library serves as the principal source of external research materials for both the Department and the entire Foreign Service community.
- b. A/GIS/IPS/LIBR serves as project manager to provide electronic desktop access to the library's collection and numerous other digital sources and services. The library promotes this initiative as a prototype for other Federal community digital library projects. It analyzes and evaluates this initiative to ensure that it complies with Department standards and meets customer needs.
- c. A/GIS/IPS/LIBR implements outreach programs and public relations initiatives.
- d. A/GIS/IPS/LIBR represents the Department on government and private-sector cooperative library service bodies and at professional meetings.
- e. A/GIS/IPS/LIBR plans and manages branch automated systems and coordinates their integration with other library functions.

1 FAM 214.2-5 Archiving and Access Systems Management Division (A/GIS/IPS/AAS)

(CT:ORG-362; 03-27-2015)

- a. The Archiving and Access Systems Management Division (A/GIS/IPS/AAS) designs, develops, implements, enhances, and manages the Department's official automated corporate archives (SAS) to maintain the authoritative records of official correspondence, communications, and documentation related to conducting the foreign relations of the United States.
- b. A/GIS/IPS/AAS compiles and analyzes user requirements for access to, and use of, SAS to ensure that state-of-the-art methodologies are available to facilitate timely and expeditious location and production of information to fulfill customer needs and legal requirements.
- c. A/GIS/IPS/AAS serves as the technical expert for using technology in the design and development of archival systems to ensure the capture of all official documentation, in any media form.
- d. A/GIS/IPS/AAS ensures the integrity, security, and integration of SAS, the Department's Freedom of Information Document Management System (FREEDOMS), and other business applications.
- e. A/GIS/IPS/AAS designs, develops, implements, enhances, and manages the Department's FREEDOMS to maintain the authoritative record of requests for information, document review and declassification, and public access and controls workflow.
- f. A/GIS/IPS/AAS serves as the technical expert on the application of state-of-the-art methodologies to the U.S. government public access and document declassification/production business processes as required by FOIA (especially EFOIA), [E.O. 13526](#), and other applicable laws, regulations, and policies.
- g. A/GIS/IPS/AAS compiles and analyzes user requirements for access to, and use of, FREEDOMS to ensure that state-of-the-art methodologies are available to facilitate timely and expeditious location and production of information to fulfill customer needs and legal requirements.

- h. A/GIS/IPS/AAS designs, develops, implements, enhances, and maintains the Department's FOIA Internet Web site.
- i. A/GIS/IPS/AAS develops business applications that support and enhance the workflow of A/GIS/IPS and facilitates connectivity or interface between A/GIS/IPS systems in conformance with established Department architecture and security standards and policies.

1 FAM 214.2-6 Resource Management Staff (A/GIS/IPS-RM)

(CT:ORG-210; 05-01-2009)

- a. The Program Support Division (A/GIS/IPS-RM) serves as principal advisor on administrative, management, and resource issues pertinent to the Director of the Office of Information Programs and Services.
- b. A/GIS/IPS-RM develops A/GIS/IPS program and workforce plans, working with office managers in coordination with A/EX. The division identifies employee training needs and works with A/EX to develop a professional development program and to ensure that employees are appropriately trained for their responsibilities.
- c. With A/EX, A/GIS/IPS-RM coordinates the management of assets (personnel, funds, and facilities) utilized by A/GIS/IPS; it ensures that proper internal controls are exercised and that resources are adequate to meet the mission and goals of A/GIS/IPS.
- d. With A/EX, A/GIS/IPS-RM directs and manages the delivery of administrative, budget, and personnel support to A/GIS/IPS employees.
- e. A/GIS/IPS-RM establishes and monitors performance measures and tracks the accomplishment of goals and objectives; A/GIS/IPS-RM keeps the office director informed of progress toward achieving the programs' mission.
- f. A/GIS/IPS-RM coordinates function code resources and serves as liaison to A/EX for all office program administrative issues such as budget, staffing, training, internal controls, facilities management, equipment, inventory, planning, and contract services.
- g. A/GIS/IPS-RM provides centralized administrative support to all divisions within A/GIS/IPS, including oversight, direction, and quality assurance, including support for special projects that may include a variety of duties in a short time frame, under time constraints. A/GIS/IPS-RM distributes incoming correspondence within A/GIS/IPS and prepares outgoing correspondence and packages.

1 FAM 214.2-7 Systematic Review Programs Division (A/GIS/IPS/SRP)

(CT:ORG-326; 01-13-2014)

- a. The Systematic Review Program Division (A/GIS/IPS/SRP) is responsible for executing the Department of State's compliance with [Executive Order 13526](#), as amended, on "Classified National Security Information" as well as for implementing Public Law-102-138 ([22 U.S.C. 4351](#)), the statutory charter of the Foreign Relations of the United States (FRUS) series.

- b. As required under [E.O. 13526](#), A/GIS/IPS/SRP reviews for classification/declassification 25-year old State Department textual (paper) and special media (electronic, microform, and other media) documents determined to have permanent historical value under Title 44 of the United States Code. Only those records meeting specific criteria with respect to national security are exempted from declassification; records containing sensitive privacy information are also withheld. In addition to reviewing all Department of State material prior to declassification, A/GIS/IPS/SRP refers to the appropriate Federal agencies all records which contain those agencies' equities and reviews all equities referred to State from other agencies.
- c. Additionally, A/GIS/IPS/SRP performs declassification review of records for inclusion in the "Foreign Relations of the United States" series, which constitutes the official historical documentary record of U.S. foreign policy decisions and significant diplomatic activity. Under [E.O. 13526](#), A/GIS/IPS/SRP also reviews for declassification mandatory and other referral requests for documents 25 years of age or older. Most such referral cases originate in presidential libraries, agencies such as Defense and CIA, and foreign governments.
- d. A/GIS/IPS/SRP actively participates in interagency training and meetings, policy formation and coordination activities related to its mission.

1 FAM 214.2-8 Records and Archives Management Division (A/GIS/IPS/RA)

(CT:ORG-362; 03-27-2015)

- a. The Agency Records Officer in the Records and Archives Management Division serves as the Secretary's delegated records officer with responsibility for the U.S. Government's foreign policy archives, a unique collection of international significance. In this capacity, the Agency Records Officer exercises program management responsibility for all records Department-wide throughout their life cycle (creation, acquisition, maintenance, use, and disposition).
- b. A/GIS/IPS/RA formulates and oversees the implementation of Department policy and guidance for record keeping in accordance with the Department's strategic plan; Congressional mandates for all electronic and non-electronic records; National Archives and Records Administration regulations, standards and guidance; and appropriate national and international professional records/information management standards.
- c. GIS/IPS/RA analyzes, evaluates, and oversees the records management program, activities, and operations. A/GIS/IPS/RA institutes policies, practices, procedures, guidelines, and regulations while ensuring the integration of requirements in operations and activities, especially in developing and applying to new technology. It coordinates records management issues with other agencies, particularly with the National Archives and Records Administration (NARA). A/GIS/IPS/RA represents the bureau and the Department at inter-agency and public fora and working groups.
- d. A/GIS/IPS/RA provides expert advice and counsel to officials at all levels on agency-wide electronic and non-electronic records management issues. A/GIS/IPS/RA advises senior program managers, the CIO and the Office of the Legal Adviser on adequacy of documentation and creation and management of agency records.
- e. A/GIS/IPS/RA participates in the Department's capital planning process for all major information systems to ensure that records management functionality appropriate to the records/information

assets they support is included in system design. A/GIS/IPS/RA advises program managers and IT managers on metadata requirements necessary to achieve this functionality.

- f. A/GIS/IPS/RA works with the CIO to build records management functionality into the Department's enterprise architecture and to ensure all Department information systems incorporate records management functionality appropriate to the records/information assets.
- g. A/GIS/IPS/RA provides technical assistance and guidance to the Department and posts on information life-cycle of records to improve operations and protect information resources.
- h. The division operates the records disposition scheduling project for all Department records, regardless of media. The division reviews, develops and updates disposition authorities to ensure appropriate preservation of records. This includes the requirement to schedule all records, including electronic records, and any other media.
- i. A/GIS/IPS/RA works closely with Department offices ensuring compliance with the FRA, E-Government Act, and NARA directives.
- j. A/GIS/IPS/RA provides briefings, training and outreach to all employees on their responsibilities for the creation, maintenance, use, and disposition of records.
- k. A/GIS/IPS/RA administers the records liaison program to Department bureaus and Foreign Service posts to implement the laws and regulations on the life-cycle of records program.
- l. A/GIS/IPS/RA conducts records management compliance reviews.
- m. A/GIS/IPS/RA operates the Records Service Center (A/GIS/IPS/RA/RSC) for all office, post, and lot files and portions of the corporate records archives. It screens non-archival material and prepares records for immediate and final disposition in accordance with [disposition schedules](#) and eventual transfer to NARA, National Personnel Records Center, and other Federal records centers.
- n. A/GIS/IPS/RA implements, administers, and operates the Department's Vital Records Program as required by [Executive Order 12656](#).
- o. The Agency Records Officer has delegated authority to certify copies of records as true and accurate copies of Department of State official records (excluding passport records) for legal purposes.

1 FAM 214.2-9 Privacy Division (A/GIS/IPS/PRV)

(CT:ORG-210; 05-01-2009)

- a. The Privacy Division (A/GIS/IPS/PRV) provides a focal point for the many complex and diverse inter-functional activities relating to privacy protection, promoting consistent implementation of privacy policies and legal requirements.
- b. A/GIS/IPS/PRV coordinates responses to, and implementation of, White House directives, and leads the Department's responses to OMB and GAO data calls and inquiries relating to privacy policy.
- c. A/GIS/IPS/PRV leads and coordinates multi-functional projects, studies and research activities to identify and address privacy issues, and participates in various inter- and intra-agency boards, committees and groups.
- d. A/GIS/IPS/PRV reviews legislative and other initiatives proposed by Congress, other agencies and the public, and formulates Department privacy policy.

- e. A/GIS/IPS/PRV provides technical expertise to the Department's Privacy Protection Governance Board (PPGB) and the PPGB's personally identifiable information (PII) coordinators.
- f. A/GIS/IPS/PRV directs the assembly of the core response groups to address data breaches.
- g. A/GIS/IPS/PRV conducts reviews of privacy impact assessments (PIAs) to ensure that privacy requirements are fully integrated into the Department's information technology systems.
- h. A/GIS/IPS/PRV supports implementation of the E-Government Act of 2002 and relevant portions of the Federal Information Management Security Act (FISMA).
- i. A/GIS/IPS/PRV serves as the Department's technical expert on the Privacy Act and, as such, responds to inquiries concerning privacy issues/concerns, conducting follow-up as necessary.
- j. A/GIS/IPS/PRV works with Department business owners to assist with the development or alteration of Systems of Records Notices (SORNS).
- k. A/GIS/IPS/PRV coordinates Department responses regarding breach notifications to affected bureaus/individuals.
- l. A/GIS/IPS/PRV develops training tools to increase privacy awareness within the Department.
- m. A/GIS/IPS/PRV provides support to the Information Sharing Committee in the development of guidelines to address privacy in the information sharing environment.

5 FAM 400 RECORDS MANAGEMENT

5 FAM 410 RECORDS AND INFORMATION LIFE CYCLE MANAGEMENT PROGRAM

(CT:IM-172; 12-15-2015)
(Office of Origin: A/GIS/IPS)

5 FAM 411 SCOPE

(CT:IM-163; 06-19-2015)

This chapter:

- (1) Establishes the basis for an active, continuing program for the effective, economical, and efficient life cycle management of records and information within the Department of State (Department) and all of its components in the United States and abroad, as required by Federal statutes and regulations;
- (2) Defines policies with respect to the creation, maintenance, use, and disposition of records, including electronic, facsimile, imaged, audiovisual and Internet/Intranet records; and
- (3) Establishes the policies required to:
 - (a) Assure the Departments compliance with Federal Information access laws and regulations, such as the ***Freedom of Information Act***, the Privacy Act, and Executive Order 13526, as amended;
 - (b) Properly classify, protect, and declassify sensitive national security information; and
 - (c) Meet the Departments domestic and international copyright obligations.

5 FAM 412 AUTHORITIES

(CT:IM-172; 12-15-2015)

- a. 5 U.S.C. 552a (Privacy Act);
- b. 5 U.S.C. 552 (***Freedom of Information Act***);

- c. 5 U.S.C. 552 Appendix (Ethics in Government Act);
- d. 18 U.S.C. 641 (Public money, property or records);
- e. 18 U.S.C. 2071 (Concealment, removal mutilation of records, etc.);
- f. 31 U.S.C. 716 (Budget and Accounting Act of 1921);
- g. 44 U.S.C. Chapter 31 (Records management by Federal agencies) (Federal Records Act of 1950);
- h. 44 U.S.C. Chapter 33 (Disposal of records)(Records Disposal Act of 1943);
- i. 44 U.S.C. Chapter 35 (Coordination of Federal information policy) (Paperwork Reduction Act, as amended);
- j. Government Paperwork Elimination Act, Title XVII of Public Law 105A277;
- k. Guide to Personnel Recordkeeping, 5 U.S.C. Part 293;
- l. Inspector General Act of 1978, as amended;
- m. Executive Order 12656, National Security Emergency Preparedness Responsibilities;
- n. Executive Order 13526, National Security Information, as amended;
- o. The E-Government Act of 2002;
- p. 22 CFR, Part 171, Subchapter R, Access to Information;
- q. 36 CFR, Chapter XII, Subchapter B, Records Management;
- r. OMB Circular A-123, Management Accountability and Control;
- s. OMB Circular A-130, Management of Federal Information Resources;
- t. *Federal Information Technology Acquisition Reform (FITARA) is Title VIII Subtitle D Sections 831-837 of H.R.3979 - Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015;*
- u. *OMB Memorandum (M-15-14); Management and Oversight of Federal Information Technology and*
- v. GAO Policy and Procedures Manual for Guidance of Federal Agencies, Title 8Records Management.

5 FAM 413 PROGRAM OBJECTIVES

(CT:IM-54; 09-17-2004)

- a. Information life cycle management is based on the concept that the three stages of the records life cycle(1) creation, (2) maintenance and use, and (3) dispositionare interrelated, and that each stage of the cycle must be structured and managed to support the others. The records and information life cycle program applies standards, procedures, and techniques designed to:

- (1) Create and preserve Federal records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the Department, as well as records necessary to protect the legal and financial rights of the Government and of persons directly affected by the Departments activities (44 U.S.C. 3101);
- (2) Establish effective management controls over the creation, maintenance and use, and disposition of records in the conduct of current business (44 U.S.C. 3102);
- (3) Establish and implement standards and procedures for classifying, indexing, and filing records; and publish these standards and instructions in a form designed for easy reference and revision;
- (4) Promote the maintenance and security of records deemed appropriate for preservation, and facilitate the segregation and disposal of temporary records (44 U.S.C. 3102);
- (5) Provide for the transfer of inactive records to a records center maintained and operated by the National Archives and Records Administration (NARA) or, when approved by NARA, to a center maintained and operated by the Department (44 U.S.C. 3103);
- (6) Establish safeguards against the removal or loss of records determined to be necessary and required by regulations, including making it known to Department officials and employees that:
 - (a) Records in the custody of the Department are not to be alienated or destroyed except in accordance with 5 FAM 434 and 5 FAM 440, and
 - (b) There are penalties provided by law for the unlawful removal or destruction of records (44 U.S.C. 3105);
- (7) Notify NARA of any actual, impending, or threatened unlawful removal, defacing, alteration, or destruction of records in the custody of the Department; and, with the assistance of NARA, initiate action through the Attorney General for the recovery of records believed to have been unlawfully removed from another Federal agency and transferred to the legal custody of the Department (44 U.S.C. 3106);
- (8) Manage the Departments records so that operations at each stage of the records and information life cycle support and facilitate the operations of succeeding stages; and
- (9) Ensure that adequate training is provided to Department personnel on policies, responsibilities, and methods for the implementation of recordkeeping requirements and the objectives of records life cycle management.

5 FAM 414 PROGRAM RESPONSIBILITIES

5 FAM 414.1 Secretary of State

(CT:IM-107; 06-09-2009)

The Secretary is required to establish a Records and Information Life Cycle Management Program in accordance with the Federal Records Act. This responsibility is delegated through the Under Secretary for Management, the Assistant Secretary for Administration, the Deputy Assistant Secretary for Global Information Services, to the Director of the Office of Information Programs and Services (A/GIS /IPS), as set forth in 1 FAM 200.

5 FAM 414.2 Department of State Records Officer

(CT:IM-107; 06-09-2009)

The Director of the Office of Information Programs and Services (A/GIS/IPS) is designated the Departments Records Officer and 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 regulations and meet the objectives set forth in 5 FAM 413. The Director of the Office of Information Programs and Services also coordinates records activities with other Federal and regulatory agencies, including NARA, the Office of Management and Budget (OMB), the General Services Administration (GSA), and the General Accounting Office (GAO), and the Office of Personnel Management (OPM).

5 FAM 414.3 Office of Information Programs and Services (A/GIS/IPS)

(CT:IM-107; 06-09-2009)

As defined in 1 FAM 214.2, the Office of Information Programs and Services (A/GIS/IPS):

- (1) Serves as the primary point of contact and principal advisor on all matters concerning the management of information as a critical resource, specifically relating to records life cycle management, public and need-to-know access to information, classification management and declassification, privacy, research of official and public information resources, and preservation of corporate records archives. A/GIS/IPS 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;
- (2) Carries out the Secretary's responsibilities for the Department's foreign policy archives, a unique collection of international significance. Represents the Secretary to the Archivist of the United States and the National Archives and Records Administration (NARA), as well as other Federal and regulatory agencies, on all records issues. A/GIS/IPS ensures

Department-wide compliance with life cycle management of Department records and promotes the integration of life cycle management principles in the Departments business and operations, particularly in the development and application of new technology;

- (3) Administers the Departments Information Access Program for the need-to-know foreign affairs and national security community in Executive agencies, the Congress, and the public, as established by the **FOIA**, the Privacy Act, the Ethics in Government Act, E.O. 13526, as amended, and other applicable statutes and regulations. A/GIS/IPS coordinates special document production efforts to ensure the Departments compliance with discovery orders, subpoenas, and other similarly mandated demands. A/GIS/IPS ensures that responses to such requests are timely, accurate, and complete;
- (4) As delegated by the Secretary through the Under Secretary for Management, ensures implementation of and compliance with the classification management and declassification requirements of E.O. 13526, as amended;
- (5) Serves as the Secretarys representative in legal proceedings against the Department dealing with records issues. A/GIS/IPS responds to administrative appeals; executes affidavits, and provides supporting evidence to the Department of Justice in defense of the Department in records-related lawsuits;
- (6) Administers the Departments Privacy Program to ensure compliance with the Privacy Act and the safeguarding of the privacy of U.S. citizens and aliens admitted for permanent residence to the United States, in their interaction with the Department;
- (7) Manages the Departments Library, a unique foreign policy collection. A/GIS/IPS develops, administers, and promotes desktop electronic capability for accessing this collection and other data sources and services;
- (8) Develops, operates, maintains, evaluates, and enhances those systems that: preserve the corporate records archives; support the information access and declassification programs; and serve the unique business systems related to the Offices mission; and
- (9) Promotes customer service principles within the Office and institutes initiatives to comply with applicable laws, regulations, and policies regarding customer service standards.

5 FAM 414.3-1 Programs and Policies Division (A/GIS/IPS/PP)

(CT:IM-107; 06-09-2009)

A/GIS/IPS/PP:

- (1) Develops policies and procedures to ensure the maintenance and preservation of the official records of the Department and its posts abroad;
- (2) Develops, reviews and updates disposition authorities and disposition schedules to ensure the appropriate preservation and disposition of the Departments records;
- (3) Develops and implements programs for information life cycle management, classification and declassification management, review and transfer of permanent historical records to NARA, access to information by former Presidential appointees, and the protection of individual rights vis--vis the Departments records;
- (4) Ensures the Departments compliance with and implementation of the Federal Records Act, **FOIA** and EFOIA, the Privacy Act, E.O. 13526 and its amendments, and other records-related statutes and regulations, as identified in 5 FAM 412;
- (5) Analyzes, evaluates and oversees records programs, activities, and operations; provides expert advice and counsel in information life cycle management and the protection of information; conducts education and outreach programs on life cycle management and records-related subjects;
- (6) Ensures the integration of record-keeping requirements in the operations and activities of the Department, especially in the development and application of new technology;
- (7) Coordinates records and information management issues with other Federal agencies, particularly NARA, OMB, and the Department of Justice; represents the Department at inter-agency and public fora, and working groups;
- (8) Fulfills official requests from Congress, judicial authorities, and other Federal agencies for special document production; and
- (9) Coordinates the Departments responses to: amendment requests under the Privacy Act; appeals of denial of access to Information under provisions of the **FOIA**, the Privacy Act, E.O. 13526; and appeals of refusals to amend records under the Privacy Act.

5 FAM 414.3-2 Requester Liaison Division (A/GIS/IPS/RL)

(CT:IM-107; 06-09-2009)

A/GIS/IPS/RL:

- (1) Serves as the primary point of contact for customers in matters pertaining to public and need-to-know access to information;
- (2) Initiates the processing of public and need-to-know information access requests; coordinates processing of information access requests directed

to the decentralized offices (see 5 FAM 414.6); monitors the progress of all such inquiries and provides status reports to customers upon request; and

- (3) Evaluates and ensures compliance with applicable laws, regulations, and policies regarding customer service standards and the Government Performance and Results Act (GPRA), and actively promotes customer service efforts.

5 FAM 414.3-3 Statutory Compliance and Research Division (A/GIS/IPS/CR)

(CT:IM-107; 06-09-2009)

A/GIS/IPS/CR:

- (1) Performs systematic, comprehensive, and complex searches for information in response to public and need-to-know information access requests; coordinates with regional and functional bureaus to search records maintained in the Department and at posts;
- (2) Provides for the review of records containing classified or other information protected by statute, regulation, or court decision in order to determine what information may be released to the requester; coordinates document review with other agencies, as needed;
- (3) Through the Systematic Review Project (A/GIS/IPS/CR/SRP) provides for the review and transfer to NARA of the Departments permanent historic records, including electronic records and microfilm, as they reach 25 years of age; and
- (4) Operates the Records Service Center (A/GIS/IPS/CR/RSC) which is responsible for: retrieval and search of retired records; retirement of records and transfer of records to a Federal Records Center or NARA; and emergency safe haven of records from posts.

5 FAM 414.3-4 The Library Division (A/GIS/IPS/LIBR)

(CT:IM-107; 06-09-2009)

A/GIS/IPS/LIBR:

- (1) Develops, administers, and operates the Departments Ralph E. Bunche Library, the principal source of external research materials for the Department and the Foreign Service community;
- (2) Serves as project manager to provide electronic desktop access to the Librarys collection and to other digital sources and services; plans and manages the automated systems of the Librarys branches and coordinates their integration with other Library functions;
- (3) Represents the Department on U.S. Government and private sector library bodies and at professional meetings; and

- (4) Implements outreach programs and public relations initiatives.

5 FAM 414.3-5 Archiving and Access Systems Management Division (A/GIS/IPS/AAS)

(CT:IM-163; 06-19-2015)

A/GIS/IPS/AAS:

- (1) Designs, develops, implements, enhances, and manages the Departments official automated corporate archive (the State Archiving System (SAS)) to maintain the authoritative record of official correspondence, communications, and documentation related to the conduct of the foreign relations of the United States;
- (2) Compiles and analyzes user requirements for access to and use of SAS to ensure that state-of-the-art methodologies are available to facilitate timely and expeditious location and reproduction of information to fulfill customer needs and legal requirements;
- (3) Ensures the integrity, security, and integration of SAS with the Offices Freedom of Information Document Management System (FREEDOMS), and other business applications;
- (4) Designs, develops, implements, enhances, and manages FREEDOMS to control workflow and to maintain the authoritative record of requests for information, document searches and review, changes of classification status, and responses to requesters;
- (5) Compiles and analyzes user requirements for access to and use of FREEDOMS to ensure that state-of-the-art methodologies are available to facilitate timely and expeditious location and production of information to fulfill customer needs and legal requirements;
- (6) Develops business applications that support and enhance workflow within A/GIS/IPS and facilitate connectivity or interface between the Offices systems, in conformance with established Department architecture and security standards and practices;
- (7) Serves as the Departments technical expert on the application of technology to: the capture and archiving of all official documentation, in any media form; information access; document production; and document declassification business processes, as required by **FOIA**, EFOIA, the Privacy Act, E.O. 13526, as amended, and other applicable statutes, regulations, and policies; and
- (8) Designs, develops, implements, enhances, and maintains the Departments **FOIA** website, as required by EFOIA, and A/GIS/IPS web-enabled business processes and customer services.

5 FAM 414.3-6 Program Support Division (A/GIS/IPS/PSD)

(CT:IM-107; 06-09-2009)

A/GIS/IPS/PSD:

- (1) Serves as the principal advisor on administrative, management, and resource issues pertinent to A/GIS/IPS programs and responsibilities;
- (2) With A/GIS/IPS managers and A/EX, develops program and workforce plans; identifies all employee training needs; ensures that employees are appropriately trained for their responsibilities and establishes a professional development program;
- (3) With A/EX, coordinates the management of assets (personnel, funds, and facilities) utilized by the Office, ensures that proper internal controls are exercised and that resources are adequate to meet the mission and goals of A/GIS/IPS;
- (4) With A/EX, directs and manages the delivery of administrative, budget, and personnel to support the Offices employees;
- (5) Establishes and monitors performance measures and tracks the accomplishment of program goals and objectives; keeps the Office Director informed of progress with respect to the organizations mission;
- (6) Coordinates function code resources and serves as liaison to A/EX for all Office program administrative issues, such as budget, staffing, training, internal controls, facilities management, equipment, inventory, planning, and contract services; and
- (7) Provides centralized clerical support to A/GIS/IPS divisions, including oversight, direction, and quality assurance; supports special projects that may require a range of functions to be performed under time constraints; distributes incoming mail and dispatches outgoing mail.

5 FAM 414.4 Bureaus

(CT:IM-163; 06-19-2015)

- a. Department bureaus and offices are responsible for implementing and administering the records policies, standards, systems, and procedures issued by the Departments Records Officer, beginning with those set forth in 5 FAM 400 and 5 FAH-4.
- b. The Executive Office of each bureau shall appoint a Bureau Records Coordinator to be responsible for coordinating a bureaus records activities with the Office of Information Programs and Services (A/GIS/IPS). The Records Coordinator is responsible for:
 - (1) Regularly reviewing the bureaus records systems and records management practices for compliance with the policies and procedures set forth in 5 FAM 400, Records Management, and 5 FAH-4, Records Management Handbook;

- (2) Managing the bureaus central files in conformance with 5 FAM 400, Records Management, 5 FAH-4, Records Management Handbook, and 5 FAH-3, TAGS/Terms Handbook;
 - (3) Establishing guidance and procedures to assure management of the bureaus office files in conformance with 5 FAM 400, Records Management, and 5 FAH-4, Records Management Handbook;
 - (4) Regularly and timely applying the appropriate records disposition schedules to bureau and office records;
 - (5) Coordinating the retirement of bureau and office records with the Records Service Center (A/GIS/IPS/CR/RSC) as described in 5 FAM 445; and
 - (6) Analyzing the bureaus records management needs and coordinating appropriate follow-on action with the Office of Information Programs and Services (A/GIS/IPS).
- c. The Records Management staff of the Life Cycle Division in the Office of Information Programs and Services (A/GIS/IPS/PP/LA;) is available to assist Bureau Records Coordinators with any of the above tasks.

5 FAM 414.5 Posts

(CT:IM-107; 06-09-2009)

- a. The Principal Officer at each post is responsible for implementing and administering records policies, standards, systems, and procedures issued by the Departments Records Officer, beginning with those set forth in 5 FAM 400 and 5 FAH-4.
- b. Under the supervision of the Management Officer, the Information Management Officer (IMO) is designated the Post Records Coordinator. At a post that does not have an IMO, the Information Program Officer (IPO) is designated the Post Records Coordinator. At posts that do not have an IPO, the senior IM representative is designated the Post Records Office. Finally, at posts that do not have an IM representative, the Principle Officer shall designate a cleared employee to act as the Post Records Coordinator. The Post Records Coordinator is responsible for:
 - (1) Regularly reviewing the posts record systems and record management practices for compliance with the policies and procedures set forth in 5 FAM 400 and 5 FAH-4;
 - (2) Managing the posts central files, if centralized, in conformance with 5 FAM 400 and 5 FAH-4;
 - (3) Establishing guidance and procedures to assure management of the records held within each section in conformance with 5 FAM 400 and 5 FAH-4;
 - (4) Managing, safeguarding, and providing appropriate guidance for the disposition of any unclassified, non-SBU records stored off-site;

- (5) Regularly and timely applying the appropriate records disposition schedules to the posts files;
- (6) Coordinating retirement or safe haven of the posts records with the Records Service Center (A/GIS/IPS/CR/RSC) as described in 5 FAM 434.6 and 5 FAM 445; and
- (7) Analyzing the posts records management needs and coordinating appropriate follow-on action with the Office of Information Programs and Services (A/GIS/IPS).

5 FAM 414.6 Decentralized Offices

(CT:IM-107; 06-09-2009)

Certain offices within the Department have large collections of centralized files that are unique with respect to both volume and content. The records of these offices, known as decentralized offices, are essentially administrative in nature, contain primarily Sensitive But Unclassified (SBU) information, and are often name-retrievable. Examples are: the offices in the Bureau of Consular Affairs that provide visa, passport, and overseas citizens services, the Office of Medical Services, the Bureau of Human Resources, and the Bureau of Diplomatic Security. The decentralized offices have unique records management responsibilities, especially concerning access to and disposition of their records. Requests for access to the records of the decentralized offices are coordinated through the Requestor Liaison Branch of the Office of Information Programs and Services (A/GIS/IPS/RL) in conformance with the policies and procedures of 5 FAM 470.

5 FAM 414.7 Management Officers

(CT:IM-163; 06-19-2015)

The management section of each Department bureau, office, or post is responsible for the following actions:

- (1) 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 (5 FAM 434);
- (2) Ensuring that in conformance with 3 FAM 2352 and Form DS-109, Separation Statement, are executed for each departing employee and forwarded to the Bureau of Human Resources, Records and Information Management Division (HR/EX/IRM); and
- (3) Advising ambassadors or officials ranked assistant secretary and above to consult with the Departments Records Officer about depositing personal papers of historical interest, accumulated during their tenure, with NARA or a Presidential archival depository, where specific restrictions may be placed on access to such papers.

5 FAM 414.8 Department Employees

(CT:IM-54; 09-17-2004)

All Department employees are:

- (1) Required by law to preserve documentary materials meeting the definition of a record under the Federal Records Act, 44 U.S.C. 3301, as reproduced in 5 FAM 415.1 (a);
- (2) Responsible for creating, using, maintaining, preserving, and disposing of the Departments information and records in accordance with 5 FAM 400 and 5 FAH-4; and lastly
- (3) Responsible for creating, using, and protecting classified national security information in accordance with 5 FAM 480 and 12 FAM 500.

5 FAM 415 DEFINITIONS

5 FAM 415.1 Records and Record Types

(CT:IM-54; 09-17-2004)

Administrative v. program records: Administrative records are records relating to the housekeeping or facilitative functions common to most offices, for example, budget, personnel, equipment, and supplies. Program records document the unique, substantive functions for which an office is responsible.

Electronic records: Numerical, graphical, and textual information recorded on any medium capable of being read by a computer and which satisfies the definition of a record set forth in 5 FAM 415.1 (a). Electronic records include, but are not limited to, records stored on-line or on off-line media such as tapes, disks, and optical disks.

Non-record materials: Materials that do not meet the definition of a record as set forth in 5 FAM 415.1 (a). Examples are extra copies of documents kept only for reference, stocks of publications or processed documents, and library or exhibit materials intended solely for reference or display.

Permanent v. temporary records: Permanent records have been determined by NARA to warrant preservation in the National Archives, and their disposition as permanent has been recorded on a Form SF-115, Request for Records Disposition Authority. Temporary records have been determined by NARA to have insufficient value to warrant preservation in the National Archives, and their disposition as temporary or disposable is documented on either a Form SF-115 or in a General Records Schedule (see 5 FAM 443).

Personal papers: Documentary materials of a private nature that have not been used in the transaction of Department business. This may include papers created or received before or after an individual entered into U.S. Government service so long as they are not related to or used in transacting

Department business. Personal papers may also include the individuals copies of employment-related records, such as leave and travel authorizations or time and attendance records. Diaries, journals, notes, personal calendars and appointment schedules may be regarded as personal papers only if they are solely for personal use and have not been used to prepare for, transact, or communicate Department business. This is a complex category and may require consultation with the Departments Records Officer and the Office of the Legal Adviser. Correspondence or email sent or received as a Department official is not personal.

Records: 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 U.S. Government 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, operations or other activities of the Government or because of the informational value of the data they contain.

Unscheduled records: Records whose final disposition has not been determined by NARA are unscheduled; they are treated as permanent records until NARA determines what their final disposition should be.

Working papers or working files: Notes, annotated copies of documents, preliminary drafts and similar materials used in the transaction of Department business or in the preparation of other documents constitute working papers or files. They may meet the definition of records set forth in 5 FAM 415.1 (a), and should be treated as records when they do. For example, working papers would constitute records when they:

- (1) Are circulated to other employees for approval, comment, action, recommendation, or follow-up, or to communicate with Department personnel about Department business, and
- (2) Contain information such as substantive annotations or comments that add to a proper understanding of the Departments formulation and execution of policies, decisions, actions or responsibilities.

5 FAM 415.2 Organization of Records

(CT:IM-54; 09-17-2004)

- a. File means an arrangement of records. The term is normally used to denote records, regardless of physical form or storage media, organized by subject, by date, or according to some other general principle, and maintained for the purposes of research, consultation or the conduct of official business. File series means a group of file units arranged by subject or function and kept together because they have a relationship arising out of their creation and use.

- b. System is the organized collection, processing, transmission, dissemination, retention, and storage of information in accordance with defined procedures. It may be called a record system or an information system. The latter term is most often used in reference to electronic records and involves input or source documents, records on electronic media, and output records.
- c. TAGS/Terms is the system used to organize, manage, locate and retrieve information in the Departments Central Foreign Policy Archive. Subject TAGS are four-letter acronyms that identify general subject areas (e.g., AMGT for management operations, CVIS for visa matters). Geo-political TAGS are two-letter acronyms that identify specific world locations (e.g., AL for Albania, GH for Ghana). Program TAGS are used to identify information relating to specific Department programs (e.g., KJUS for administration of justice, KTIA for treaties and International agreements).

5 FAM 415.3 Use and Disposition of Records

(CT:IM-54; 09-17-2004)

- a. Access means the use of or the ability to consult records, including classified or administratively-controlled records.
- b. Appraisal is the process by which NARA determines the value and thus disposition of Federal records, making them either permanent or temporary.
- c. Disposition means those actions taken, after appraisal by NARA, regarding records no longer needed for conducting the Departments regular current business. This may be temporary storage or destruction for temporary records, or transfer to NARA or a Federal Records Center for permanent records.
- d. Schedule (records schedule or disposition schedule) is a document that provides mandatory instructions for what to do with records and nonrecord material no longer needed for current U.S. Government business. In everyday Department usage, records disposition schedule usually refers to Form SF-115, Request for Records Disposition Authority, which authorizes the disposition of Federal records upon approval by NARA. The disposition schedules for Department records may be consulted at the Records Management website on OpenNet.
- e. Storage media includes but is not limited to magnetic media such as tapes and disks, and optical media such as optical disks and CD-ROMs.

5 FAM 416 THROUGH 419 UNASSIGNED

5 FAM 450 MANAGEMENT OF DIGITAL IMAGING RECORDS

*(CT:IM-129; 04-04-2012)
(Office of Origin: A/GIS/IPS)*

5 FAM 451 GENERAL

(CT:IM-129; 04-04-2012)

- a. All Department organizations planning digital imaging projects must complete the Departments records management digital imaging checklist before proceeding. Completing the checklist will assist organizations in considering the records management Implications of digitizing records and in determining the feasibility of undertaking the project based on a benefit cost analysis (BCA). The checklist is available in 5 FAH-4 H-610. The Bureau of Administration, Office of Global Information Services, Information Programs and Services (A/GIS/IPS) can provide records management guidance specific to the records to be scanned. The costs for scanning will vary depending on such factors as the format, the indexing, and the storage and maintenance needs (See 5 FAM 660 for BCA).
- b. Federal record-keeping requirements (See 5 FAM 400) and other legal Issues must be considered, including the trustworthiness of the system, integrity of the data, protecting Personally Identifiable Information (PII) (See 5 FAM 469), and need for physical signatures.
- c. The office conducting a digital imaging project is responsible for the maintenance, retrievability, quality, utility, and accessibility of the records, regardless of the media. Therefore, the digital imaging project must have a migration plan to adjust to changes in technology (hardware, applications, media life, etc.) over the retention span of the records. The scanned images must remain 100% accurate and legible over their lifetime. In addition, you must follow the procedures in 5 FAH-4 H-610 to ensure the scanned images remain trustworthy and unalterable over their lifetime. Finally, another factor to consider is the need to create, store, and refresh back-up copies of the scanned images.
- d. Program managers must ensure the scanned images remain trustworthy and unalterable over their lifetime. Some guidelines are included in 5 FAH-4 H-610.
- e. Program managers must ensure back-up copies of the digital images are created, stored, and refreshed.

- f. Information Technology digital imaging projects must meet 5 FAM 900 and 5 FAM 1040 funding requirements, when applicable.
- g. Administrators of electronic records systems must ensure storage media are acceptable; a description of acceptable storage media is in 5 FAH-4 H-218.3.

5 FAM 451.1 SCOPE

(CT:IM-129; 04-04-2012)

This policy applies Department-wide to ensure the effective and economical management of electronic records as a critical business asset for domestic offices and Foreign Service posts.

5 FAM 451.2 AUTHORITIES

(CT:IM-129; 04-04-2012)

The authorities for this policy reside in 5 FAM 400 Records Management and specifically 5 FAM 440, Electronic Records Management.

5 FAM 451.3 DEFINITIONS

(CT:IM-129; 04-04-2012)

Digital Imaging is a process that converts paper documents to electronic format. The images are commonly stored on magnetic or optical media (such as CD-ROMs, backup drives or tapes) or reside on servers.

5 FAM 452 DISPOSITION OF DIGITAL IMAGES

(CT:IM-129; 04-04-2012)

All Department records, regardless of media, must be retained and disposed of in accordance with the Departments Records Disposition Schedules as approved by the Archivist of the United States. A/GIS/IPS manages the Departments Records Disposition Schedules (as defined under schedule in 5 FAM 415.3). The records schedules that cover the records to be scanned must be identified before embarking on a scanning project. You must store media (CD-ROMS, backup drives, tapes) containing classified information in accordance with 12 FAM 530 and, for end-of-life disposition, you must destroy media as stated in 12 FAM 630.

5 FAM 452.1 Digital Imaging of Temporary Records

(CT:IM-129; 04-04-2012)

Many of the Departments records are temporary, which means that ultimately after a specified period of time the records are destroyed. Records that have been determined by the National Archives and Records Administration (NARA) to have insufficient value to warrant permanent preservation are assigned a temporary disposition, and their retention period is documented on an approved Records Disposition Schedule (See 5 FAM 415 - Definitions). Imaged copies of records already scheduled as temporary do not need a new schedule approved if the content of the imaged records remains identical to the description in the current schedule.

5 FAM 452.2 Digital Imaging of Permanent Records

(CT:IM-129; 04-04-2012)

Permanent records are identified in the Departments records disposition schedules. The images and format must meet NARA minimum resolution requirements for scanning permanent records, which is 300 DPI (dots per inch). In the case of scanning permanent records, you must not destroy the paper copies used to create the digital images unless a new Records Disposition Schedule provides such disposition instructions for the paper copies.

5 FAM 452.3 Digital Imaging of Unscheduled Records

(CT:IM-129; 04-04-2012)

In the case of scanning unscheduled records (records not covered by a disposition schedule), offices must not destroy either the paper or electronic copies until an appropriate Records Disposition Schedule has been developed and approved by NARA.

5 FAM 453 DIGITAL IMAGING OF CLASSIFIED RECORDS

(CT:IM-129; 04-04-2012)

Procedures for digital imaging of classified records are covered in 5 FAH-4 H-610. For any permanent classified digital images, offices are responsible for ensuring the availability of the appropriate hardware or software for A/GIS/IPS to view the images and declassify or extend their classification as appropriate. The originating office is required to work with A/GIS/IPS to ensure a long-term plan is in place for accomplishing this activity.

5 FAM 454 STORAGE AND MAINTENANCE OF ELECTRONIC MEDIA

(CT:IM-129; 04-04-2012)

- a. Regardless of where the scanned images are physically located, as long as electronic documents are in the possession of the Department, you must maintain the media and format to avoid obsolescence. In other words, throughout the life cycle of the records, you must have the capability to retrieve the information in the records for your own business purposes, and in response to ***Freedom of Information Act (FOIA)*** and Privacy Act (PA) requests, requests from Congress, litigation-related requests, and other legally mandated record requests.
- b. You must update the hardware and software as needed to ensure the quality, integrity, and utility of the records. You are responsible for ensuring the retrievability of the electronic records.
- c. Bureau Executive Directors (EX) and Chiefs of Mission (COM) must ensure offices understand the storage, privacy protections, and maintenance responsibilities of digital imaging.

5 FAM 455 THROUGH 459 UNASSIGNED

(CT:IM-129; 04-04-2012)

5 FAM 470 ACCESSING AND USING DEPARTMENT OF STATE INFORMATION

*(CT:IM-136; 10-12-2012)
(Office of Origin: A/GIS/IPS)*

5 FAM 471 PURPOSE

(CT:IM-124; 12-09-2011)

This subchapter presents the policy requirements for accessing and using Department Information that is generated both internally and externally. This subchapter also defines various types of accessible information used by other Federal agencies, internal auditors, congressional requestors and staffs, and the public.

5 FAM 472 SCOPE

(CT:IM-124; 12-09-2011)

- a. Federal agency workforce personnel must adhere to the requirements in this subchapter for accessing and using Department information. Workforce personnel include: all Federal employees both domestic and abroad at each Federal agency; contractors; and locally employed staff abroad.
- b. State and local governments must also adhere to the requirements in this subchapter.
- c. Internal and external auditors must follow the access, use, and restrictions described in this subchapter.
- d. Access by the public to Department information is governed by several Federal statutes and regulations, including those cited in 5 FAM 473, below. The Office of Information Programs and Services (A/GIS/IPS) processes all public requests, to the Department, for access to Department information.

5 FAM 473 AUTHORITIES

(CT:IM-124; 12-09-2011)

- a. The ***Freedom of Information Act*** (5 U.S.C. 552) requires Federal agencies to make public and accessible all bureaucratic and technical procedures for applying for documents from that agency.

- b. The Privacy Act of 1974 (5 U.S.C. 552a) states that no agency shall disclose any record by any means of communication to any person or agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains.
- c. The Ethics in Government Act, 5 U.S.C. Appendix, states which persons may request access to the public financial disclosure reports of employees of the Department as well as limits to such requests and use of such information. 5 CFR part 2634, requires that high-level Federal officials disclose publicly their personal financial interests.
- d. 22 U.S.C. 4004 states that only select personnel can inspect performance records of the Department relating to Foreign Service employees, including performance material.
- e. 22 CFR Part 171 contains the Department's regulations implementing the **Freedom of Information Act**, the Privacy Act, and the public financial disclosure provisions of the Ethics in Government Act.
- f. 22 CFR Part 172 deals with the service of subpoenas, court orders, and other demands or requests for official information or action.
- g. Executive Order 13526 (Classified National Security Information) establishes a uniform system for classifying, marking, safeguarding, and declassifying all information concerning the national defense or foreign relations of the United States when such information is determined to require protection against unauthorized disclosure. It also provides for mandatory declassification review of identifiable documents on request.
- h. The Immigration and Nationality Act 8 U.S.C. 1101 at 1202(f) provides for the confidentiality of visa records, with use authorized only for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States, except that the Secretary of State may authorize the providing of a record to a court or a foreign government under certain circumstances.

5 FAM 474 GENERAL PERSONNEL POLICIES

(CT:IM-124; 12-09-2011)

The sections below describe what certain personnel must do to access and use Department information.

5 FAM 474.1 Department Workforce Personnel

(CT:IM-136; 10-12-2012)

- a. Employees of the Department, its domestic field offices, posts abroad, and U.S. missions to international organizations may access records based on the following general restrictions:

- (1) Access is in accordance with applicable procedures and requirements of the security regulations (12 FAM 230 and 12 FAM 576), the personnel regulations (3 FAM 2350), the regulations regarding Inspector General files (2 FAM), and the provisions of the Privacy Act of 1974 (See 5 FAM 462 and 22 CFR Part 171).
- (2) Access to and use of records by employees is subject to the determination of a need-to-know by offices responsible for the information. An employee is not entitled to receive information only by virtue of official position or by holding a security clearance. The employee must have a need for access to particular records sought in connection with performance of official U.S. Government duties.
- (3) Foreign Nationals access to Department information is limited to access required to perform official duties, consistent with provisions of the security regulations (See 12 FAM 500).
- (4) 22 U.S.C. 4004 states that performance records of the Department relating to Foreign Service employees, including performance material, are personal and private in nature and subject to inspection by the following personnel only:
 - (a) The President;
 - (b) Legislative and appropriations committees of Congress charged with considering legislation and appropriations for the Department or representatives authorized by the committees;
 - (c) Personnel identified in 3 FAM 2351.
- (5) Records relating to the following generally are only accessible by authorized employees for official purposes:
 - (a) Citizenship;
 - (b) Unsettled claims;
 - (c) Department and Foreign Service personnel matters;
 - (d) Issuance or refusal of visas or permits to enter the United States; and
 - (e) Intelligence and investigative records.

If, however, such records are not exempt from disclosure under the **Freedom of Information Act** (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), or other law, their disclosure availability is in accordance with Department regulations. National Archive regulations govern accessing retired records (See 22 CFR Part 171).

- (6) Classified, investigative and other sensitive records, originating in other agencies and furnished to the Department, are communicated to a third agency or person only under security regulations and with the consent of the originating agency (See Executive Order 13526 and 22 CFR Part 171).

- (7) Employee access to records for purposes other than in connection with performance of official U.S. Government duties is governed by procedures and requirements of public access regulations (See 22 CFR Part 171).
- b. To recall your Departmental or post records retired to Federal Records Centers or the Department records center storage facility, contact the Records Service Center (RSC; A/GIS/IPS/RA/RSC). Forward email requests for records to RetiredRecords-DL@state.gov.

5 FAM 474.2 Other Federal Workforce Personnel

(CT:IM-124; 12-09-2011)

- a. The Executive Secretariat (S/ES) is responsible for official communication and conveyance of information from the Department to the White House and other U.S. Government departments and agencies (See 1 FAM 022.2). When appropriate, provide documents requested by such agencies or departments to S/ES under cover of a memo for transmittal from the Executive Secretary to his or her counterpart in the requesting agency or department.
- b. Refer any requests for Office of Inspector General (OIG) records to the Office of Inspector General.
- c. Records maintained in offices and posts are available to other Federal agencies, only:
- (1) When deemed advisable by officers responsible for their custody;
 - (2) When not prohibited by privacy, security, or other statutory restrictions; and
 - (3) When accompanied with appropriate disclosure limitations.
- d. Each post establishes procedures for handling requests from the personnel of other U.S. Government agencies for access to post records for official purposes.
- e. Inactive records, retired by offices or posts, are available to other Federal agencies upon clearance from the office of origin or action. The release of the records is subject to the regulations and controls contained in 5 FAM 4 H-410.
- f. Coordinate with the Historical Office (PA/HO) all requests from other Federal agencies for records needed for historical research.
- g. Forward **FOIA** referrals from other agencies to:

Information Programs and Services
A/GIS/IPS
U.S. Department of State, SA-2
515 22nd Street, N.W.
Washington, DC 20522-8100

5 FAM 474.3 Requests From the Government Accountability Office (GAO)

(CT:IM-124; 12-09-2011)

- a. It is the Department's policy to expeditiously fully cooperate with and assist the GAO in fulfilling its statutory responsibilities while also respecting Department foreign policy and operational requirements. As appropriate, the Department, within the framework of law and overall Administration policy, also may assist GAO in connection with studies falling outside its statutory jurisdiction, although there may be limitations on the form of assistance in such cases. The Department cooperates with the GAO by providing data and information, briefings, comments on draft reports, recommendations, and formal responses to final reports. The Department also assists the GAO with travel and other arrangements when GAO personnel travel to U.S. missions at the United Nations in New York and abroad.
- b. The procedures for working with the GAO are in 5 FAH-4 H-700.

5 FAM 474.4 Historical Researchers And Certain Former Government Personnel

(CT:IM-124; 12-09-2011)

The need to know requirement for access to classified information may, under certain circumstances and in accordance with E.O. 13526, be waived for historical researchers, former Presidents, former Vice Presidents, and individuals who have occupied senior policy-making positions to which they were appointed by the President or the Vice President (or their appointees or designees). See 22 CFR 9. Make requests to A/GIS/IPS for documents. A/GIS/IPS will determine, with the assistance of Diplomatic Security (DS), whether the former appointee has the needed security clearance.

5 FAM 474.5 Contractors

(CT:IM-124; 12-09-2011)

- a. All data created by contractors for the Department are official records and must be managed in accordance with records management legislation as codified in 44 U.S.C., chapters 21, 29, 31, and 33; the ***Freedom of Information Act*** (5 U.S.C. 552); and the Privacy Act (5 U.S.C. 552a). Schedule these records for disposition in accordance with 36 CFR Part 1228.
- b. The contracting officer (CO) from the appropriate liaison or functional office ensures that the contractor is informed of the requirements for access to Department records.
- c. Contractors access to classified records is subject to security regulations (See 12 FAM 230 and 12 FAM 576).

5 FAM 474.6 Litigation Related Requests for Official Information or Testimony

(CT:IM-124; 12-09-2011)

- a. Handle all requests for official information or testimony involving litigation under 22 CFR Part 172.
- b. You must inform the Office of the Legal Adviser (L) of requests for records or information connected with litigation. Passport agencies must contact Passport Services Office of Legal Affairs (PPT/L) regarding any such requests. Passport records and information may not be disclosed except as provided in 7 FAM 1300 Appendix J. Do not disclose official records requested from outside the Department for use in litigation without the concurrence of (L). Maintain these records separately to avoid inadvertent disposal and label them with Form DS-1851, Hold For Litigation.

5 FAM 475 ACCESS TO THE PUBLIC

5 FAM 475.1 General Policy

(CT:IM-124; 12-09-2011)

- a. Unclassified information, documents, and forms that have previously been provided to the public by the Department will continue to be made available.
- b. Make all identifiable records of the Department not available under 5 FAM 475.1 paragraph a (above) available to the public, pursuant to the provisions of the **Freedom of Information Act**, E.O. 13526, the Privacy Act, and the Ethics in Government Act, upon compliance with the policies and procedures established in 22 CFR Part 171, Availability of Information.
- c. Forward mail requests to:

Information Programs and Services
A/GIS/IPS
U.S. Department of State, SA-2
515 22nd Street, N.W.
Washington, DC 20522-8100

The phone number of the **FOIA** Requester Service Center is: 202-261-8484. Facsimile requests under the **FOIA** are sent to: 202-261-8579. The Departments public website has a **FOIA** letter generator that the public can use to submit a request by email. IPS will coordinate the response to the request with Department field offices and posts abroad, if necessary.

- d. Refer any request received through normal channels of contact with the public, media, or the Congress to Information Programs and Services, A/GIS/IPS, for processing under the appropriate statute or executive order and notify the requester that the request has been referred.

5 FAM 475.2 Access to Archived Records

(CT:IM-124; 12-09-2011)

The Department ordinarily transfers custody of records as soon as practicable after they become 25 years old to the National Archives. Forward correspondence regarding access to these records to:

Textual Archives Services Division
National Archives and Record Administration
College Park, MD 20740

5 FAM 476 THROUGH 479 UNASSIGNED

(CT:IM-124; 12-09-2011)

5 FAM 720 GENERAL POLICIES

*(CT:IM-175; 03-15-2016)
(Office of Origin: IRM/BPC/PRG)*

5 FAM 721 GENERAL POLICIES

(CT:IM-175; 03-15-2016)

- a. Access to the Internet through the Department of State's facilities is for official and unclassified use by authorized personnel. Limited personal use is authorized as described in 5 FAM 723, Personal Use of U.S. Government Equipment. The OpenNet is the network for intra-Departmental unclassified and Sensitive But Unclassified (SBU) email, web and other standard client/server computer systems services. Policies regarding the content and usage of email transmitted on Department networks are contained in 5 FAM 750, Email Policy.
- b. All users of the Internet and Department of State Intranets (classified and unclassified) through the Department of State's facilities are required to abide by the security requirements outlined in 12 FAM 600, Information Security Technology. For more information, contact the Office of Cybersecurity (DS/SI/CS) by email at askc@state.gov.
- c. Under 5 FAM 443.5, Points to Remember About Email, email messages may be subject to the Federal Records Act and/or they may be considered official records. Official business messages shall comply with the requirements of the Federal Records Act.

5 FAM 722 RESPONSIBILITIES

5 FAM 722.1 Chief Information Officer

(TL:IM-33; 02-27-2002)

The Chief Information Officer:

- (1) Provides technical policy and related procedural guidance for establishing, operating, and maintaining sites on the Intranet and Internet domestically and for locations abroad;
- (2) Maintains liaison with the Assistant Secretary for Public Affairs and the Coordinator for International Information Programs to provide policy

oversight and guidance to ensure the effective dissemination of foreign affairs information on the Internet;

- (3) Serves as the authority for Department wide information systems security programs. In conjunction with this authority, implements and maintains security solutions on worldwide Department networks developed in conjunction with the Assistant Secretary for Diplomatic Security to prevent unauthorized access and tampering;
- (4) Provides operational support to all Department bureaus, posts, and tenant organizations to protect Department IT resources from computer virus invasion and to recover IT systems that have been infected by computer viruses;
- (5) Develops handbooks and other guidance, as necessary, to direct or assist with Intranet and Internet activities;
- (6) Evaluates evolving web technologies and tools for deployment on Department sites to improve their efficiency and effectiveness;
- (7) Provides host servers and expertise for the ongoing development of the Intranet. Maintains Intranet servers and develops sites for other Department elements on a fee-for-service basis;
- (8) Provides TCP/IP address and network management for all sites. Advises and assists locations abroad in adding their sites to the worldwide network;
- (9) Administers firewall protection for Department networks;
- (10) Performs operational monitoring of networks to detect unauthorized access and for improper use by employees;
- (11) Provides network traffic management in accordance with policies approved by the ITCCB and administered by the Office of Enterprise Network Management. Provides application monitoring of Internet and Intranet use; and
- (12) Models and analyzes network traffic growth and prepares an annual Network Capacity Plan for the Department which is used for circuit management in cooperation with DTS-PO. Models, tests, and analyzes new bureau enterprise applications for their impact on network performance and capacity. These results are reported to the ITCCB.

5 FAM 722.2 Assistant Secretary for Diplomatic Security

(TL:IM-33; 02-27-2002)

The Assistant Secretary of Diplomatic Security:

- (1) Implements the Departments intrusion detection system program;

- (2) Implements a computer security awareness training program, that includes Internet and Intranet security;
- (3) Implements and maintains security solutions on worldwide Department networks developed in conjunction with the Chief Information Officer to prevent unauthorized access and tampering;
- (4) Provides consultation on Internet web page development to ensure the content does not violate security requirements contained in 12 FAM 600, Information Security Technology;
- (5) Leads the Computer Incident Response Team (CIRT) and is the point of contact for reporting unauthorized activity on Department of State computer systems. Diplomatic Security is responsible for providing Incident reports to the OIG and other appropriate offices; and
- (6) Provides computer and communications security evaluations.

5 FAM 722.3 Assistant Secretary for Public Affairs

(CT:IM-175; 03-15-2016)

The Assistant Secretary for Public Affairs:

- (1) Operates and maintains the Department of States website which is the official primary point of public access to information about the Department and Departmental foreign policy material;
- (2) Provides content and design guidance to Department elements that publish public web pages in order to ensure credibility of information released and to maintain a degree of consistency in its appearance throughout the Department. Approves Internet publication of information in accordance with clearance procedures outlined in 10 FAM 142, Electronic/Hard-Copy Dissemination; and
- (3) Works with the Coordinator for International Information Programs on website content related to public diplomacy programs abroad.

5 FAM 722.4 Coordinator for International Information Programs

(CT:IM-175; 03-15-2016)

The Coordinator for International Information Programs:

- (1) Operates and maintains the International Information Program home page for the Department;
- (2) Provides advice and assistance to missions abroad that set up their own web pages. Serves as the primary point of contact for guidance on content of pages containing material related to the public diplomacy mission; and

- (3) In conjunction with the Office of the *Assistant Legal Adviser for Public Diplomacy* (L/PD) and the Bureau of Public Affairs (PA), oversees compliance with the Smith-Mundt Act, which prohibits domestic dissemination of public diplomacy program materials the Department has prepared for dissemination abroad.

5 FAM 722.5 Department Heads of Bureaus, Offices and Other Elements

(CT:IM-175; 03-15-2016)

Department heads of bureaus, offices, and other elements are responsible to:

- (1) Establish a process for identifying information appropriate for posting to the Internet or Intranets;
- (2) Ensure all information to be placed on public websites is properly reviewed for security levels of sensitivity and is cleared through the Public Affairs' Office of Electronic Information, as necessary, using Form DS-1837, Request for Approval of New or Recurring Information Dissemination (see 10 FAM 142, Electronic/Hard-Copy Dissemination);
- (3) Ensure appropriate privacy, security, copyright notices and any other applicable disclaimers are used on all web pages under their purview;
- (4) Conform to Department security requirements and cooperate with all risk assessments conducted on their web sites;
- (5) Provide for regular functional review and management oversight of all web pages under their purview;
- (6) Provide resources to adequately support website operations including funding, equipment, staffing and training; and
- (7) Work with *A/GIS/IPS* to preserve email and other data that qualify as Federal records (see 5 FAM 443, Electronic Mail (Email) Records and NARA regulations).

5 FAM 722.6 Internet/Intranet Site Managers

(TL:IM-33; 02-27-2002)

The following responsibilities apply to all sites, whether managed internally with Department resources, or by an external Internet service provider.

Internet/Intranet site managers are responsible to:

- (1) Ensure that a system is in place to provide effective day-to-day operation and maintenance of web servers or pages in their control, including making routine backups and contingency plans in the event of external attack or server failure;

- (2) Immediately report server anomalies or evidence of unauthorized access to the computer incident response team (CIRT) and information systems security officer (ISSO);
- (3) Ensure internally hosted sites conform to all Department security requirements. Site managers using external Internet service providers should select those that most closely meet Department security requirements and recommendations;
- (4) Ensure no classified information or NOFORN (No Foreign Dissemination) material is published on any unclassified Internet or Intranet site and that no SBU (Sensitive But Unclassified) material is published on the Internet;
- (5) Assist users in learning how to use web browser software;
- (6) Keep all operating system software, web server, and anti-virus software updated with the latest ITCCB-approved patches, releases, and definitions. In the case of externally hosted sites, encourage the hosting Internet service provider (ISP) to do the same;
- (7) Keep website content current. Remove old pages that are no longer relevant or useful. Routinely verify that links are still valid;
- (8) Ensure the Departments Cookie Policy as described in 5 FAM 741, General Policy, is enforced; and
- (9) Comply with the revised Section 508 of the Rehabilitation Act of 1973, on accessibility of websites.

5 FAM 722.7 Intranet and Internet Users

(CT:IM-175; 03-15-2016)

A user is any person who is given Intranet and Internet access. Internet and Intranet users must:

- (1) Follow email usage policies as outlined in 5 FAM 750, *Electronic Mail (Email) Policy*, and Internet access policies stated in 5 FAM 780, Internet Access;
- (2) Ensure that only unclassified data is transmitted unencrypted via the Internet;
- (3) Appropriately mark the classification of email messages, as detailed in 5 FAM 753, Marking Email; and
- (4) Abide by the user security requirements outlined in 12 FAM 600, Information Security Technology.

5 FAM 722.8 Office of Inspector General

(TL:IM-33; 02-27-2002)

The Office of the Inspector General:

- (1) Conducts an annual evaluation of the Department of States information security program that may include the use of the Internet and Intranet, under the Government Information Security Reform Act;
- (2) Investigates misuse of U.S. Government computer resources for personal gain, and the excessive personal use of official U.S. Government computers; and
- (3) Investigates conduct when the Internet and/or Intranet is being used by an employee or contractor of the Department of State in furtherance of a fraud or crime.

5 FAM 723 PERSONAL USE OF U.S. GOVERNMENT EQUIPMENT

(CT:IM-175; 03-15-2016)

The following policies, in addition to all relevant laws and regulations, including those relating to copyright, trademark, obscenity, defamation, the right of privacy, false advertising, and fraud, apply to all U.S. Government equipment and all methods of accessing the Internet using U.S. Government equipment. In addition to such laws and regulation, use of U.S. Government equipment and the Internet is governed by the Standards of Ethical Conduct for Employees of the Executive Branch. The definitions in 5 FAM 724, *Monitoring and Auditing Policies*, shall apply for purposes of this section:

- (1) Employees may make personal use of unclassified Department of State office equipment if it involves negligible additional expense to the U.S. Government such as electricity, ink, small amounts of paper, and ordinary wear and tear. Such use is authorized as long as only small amounts of paper are involved and as long as the use does not interfere with official duties;
- (2) Personal use of U.S. Government classified computers is strictly prohibited;
- (3) Employees may use the Internet if basic access to the Internet does not result in increased cost to the Department. Employees may use the Internet in moderation, on personal time, for matters that are not directly related to official business. This includes the use of Internet email; however, anyone making personal use of Internet email should make it clear that his or her personal email is not being used for official business (see 5 FAM 752.1, *Prohibitions When Using Email*);
- (4) Employees have no expectation of privacy while using any U.S. Government-provided access to the Internet. The Department considers electronic mail messages on U.S. Government computers, using the Internet or other networks, to be government materials and it may have

access to those messages whenever it has a legitimate purpose for doing so. Such messages are subject to regulations and laws covering government records, and may be subject to **Freedom of Information Act (FOIA)** requests or legal discovery orders;

- (5) Employees must conduct themselves professionally in the workplace and must refrain from using Department resources for activities that may be offensive to co-workers or to the public;
- (6) The following personal uses of U.S. Government equipment and networks are strictly prohibited, regardless of whether the use occurs on or off government premises or whether the use is during or outside normal work hours:
 - (a) Use that results in an additional charge to the U.S. Government. It is the employee's responsibility to be aware whether an additional cost is involved;
 - (b) Use that compromises the security of U.S. Government systems. For example, email attachments sometimes contain a virus or other destructive package. Up-to-date virus protection software must be used. Be particularly wary of ".zip" files, which can contain multiple compressed files (including viruses);
 - (c) Viewing or accessing sexually explicit material;
 - (d) Visiting or subscribing to any Internet-based service (e.g. mailing lists) in violation of any applicable law;
 - (e) Use that involves gambling; *and*
 - (f) Use that generates either personal income or income for any organization with which the employee is affiliated including advertising, conducting a personal business, soliciting clients, and making sales; *and*
- (7) Personal use of U.S. Government equipment must be restricted to personal time, and must not detract from an employee's performance of official duties. It is the responsibility of each employee to protect and conserve U.S. Government property, and to use official time in an honest effort to perform official government duties:
 - (a) Supervisors are authorized to, and should, limit personal use if it becomes necessary because of cost, time away from official duties, degraded computer or network performance, or other deviation from the letter or spirit of this section;
 - (b) Where nonemployees are authorized access to or use of U.S. Government equipment, they must comply with the policies set forth above, as well as all other applicable legal and regulatory requirements;

- (c) Failure to comply with the provisions in subsection (a) may result in a number of corrective actions ranging from minor to severe. For example, employees accessing, distributing, or generating pornography using Department resources are subject to disciplinary action that may include dismissal and/or applicable legal proceedings; *and*
- (d) The personal use of U.S. Government equipment and Internet access is a privilege, not a right. It may be restricted or revoked, whenever appropriate, in the interest of the U.S. Government.

5 FAM 724 MONITORING AND AUDITING POLICIES

(CT:IM-175; 03-15-2016)

- a. As stated in 5 FAM 723, Personal Use of U.S. Government Equipment, is a privilege, not a right, and there is no expectation of privacy while using any U.S. Government-provided equipment or access to the Internet. It is imperative that individuals make every effort to maintain the security of the network, comply with all requirements, and act in such a manner that will not bring discredit on the Department. Monitoring and auditing user activity is a means by which the Department can ensure compliance with 5 FAM 723.
- b. Definitions, roles and responsibilities:
 - (1) The term supervisor will refer to the supervisor or higher-level manager of an employee. A supervisor may request an audit of an employee's activities on government-owned communications equipment or networks;
 - (2) The reviewing official makes the decision whether an audit is justified and has the authority to task the systems administrators, information system security officers, and firewall administrators to conduct an audit and report the result:
 - (a) Domestically, the reviewing official function shall rest with the office director or higher; the bureau executive director may also serve as the reviewing official; *and*
 - (b) Overseas, the reviewing official function shall rest with the deputy chief of mission at an embassy, or consul general/principal officer at other posts, or their designee;
 - (3) An employee may be a Department employee in the Foreign Service, Civil Service, or *locally employed staff (LE staff)*; an employee of another U.S. Government agency authorized to use Department resources; or a contract employee working on a Department contract;
 - (4) Nonemployees include all other authorized users *such as* eligible family members at overseas posts. Nonemployees will be held to the same standards of use as employees when using government equipment;

- (5) Firewall administrators will be responsible for reviewing audit logs for email and Internet access as directed by a reviewing official; *and*
 - (6) Systems administrators and/or information system security officers (ISSOs) will be responsible for reviewing content of local workstation files and server files as directed by a reviewing official. Personal use of government equipment is any IT activity that does not support the official business of the Department.
- c. Continuous monitoring is performed to ensure the integrity of the Department networks and systems. Activities found in the course of continuous monitoring that appear to be in violation of applicable law, regulation, or policy will be referred to Diplomatic Security for investigation (see 12 FAM 600, Information Security Technology), or refer to the employee's reviewing official for action. Continuous monitoring includes but is not limited to:
- (1) ISSO review of audit logs for security violations as required in 12 FAH-10 H-120, *Audit and Accountability*;
 - (2) Firewall administrator review of audit logs for inappropriate access and use of the Internet;
 - (3) Firewall administrator review of audit logs of electronic communication activity for inappropriate content and/or attachments; and
 - (4) System administrator and/or ISSO audit of user workstations to ensure a prescribed configuration is in effect.
- d. Auditing of 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, may be performed under the following conditions:
- (1) When there is suspicion that improper use of government equipment has occurred;
 - (2) When the concurrence of a reviewing official has been obtained. The supervisor identifying a need to audit an employee's activity or workstation must explain the reasons for requesting an audit to the reviewing official who has authority to approve the audit;
 - (3) The reviewing official must send a memorandum to whomever performs the audit, authorizing the audit to be conducted;
 - (4) The results of the audit must be returned to the reviewing official who will make a determination whether the reported activities should be referred to Diplomatic Security (DS) for further investigation. Where appropriate, matters may be addressed administratively as described in subparagraph *d(5) of this section*; and
 - (5) Where an allegation of improper use of government equipment has been substantiated by an audit:
 - (a) An allegation against a U.S. Government employee will either be addressed administratively within the employee's bureau or all

documentation will be forwarded to HR for review and administrative action as described in 3 FAM 4300, Disciplinary Action (Including Separation for Cause) [Foreign Service], or 3 FAM 4500, Civil Service Disciplinary and Adverse Actions;

- (b) An allegation against a contractor will be addressed by the cognizant contracting officer and domestically the bureau executive director or overseas the deputy chief of mission at an embassy or consul general/principal officer at other posts;
- (c) An allegation against a nonemployee may result in suspension of the privilege to use government equipment and, in some circumstances, may subject the nonemployees sponsor to discipline; *and*
- (d) Should the allegation result in disciplinary action, Department employees have the right to appeal as described in 3 FAM 1560, Processing Mixed Case Complaints. Employees of organizations other than the Department should refer to their own organizations for appeals procedures.

5 FAM 725 THROUGH 729 UNASSIGNED

Judicial Watch v. Department of State (D.D.C. 13-cv-1363)

Preparation for 30(b)(6) Deposition

- John Hackett, formerly in IPS
- Karen Finnegan, formerly in IPS
- Peggy Grafeld, A/GIS
- William Fischer, IPS
- Eric Stein, IPS
- Tasha Thian, formerly in IPS
- Sheryl Walter, formerly in IPS
- Julia Navarro, IPS
- Mary Casto, IPS
- Jeanne Miller, IPS
- Edgar Jaramillo, IPS
- Susan Weetman, IPS
- Patrick Scholl, IPS
- Patrick Kennedy, M
- Clarence Finney, S/ES-S
- Tom Lawrence, S/ES-IRM
- Cindy Almodovar, S/ES-IRM
- Jennifer Davis, formerly in S
- Daniel Fogarty, formerly in S
- Joseph Macmanus, S/ES
- Jonathon Wasser, S/ES-S
- Paul Horowitz, formerly in S/ES-S
- Katie Stana, formerly in S/ES-S
- MaryKay Carlson, formerly in S/ES-S
- Kin Moy, formerly in S/ES
- Kenneth LaVolpe, S/ES-IRM
- Daniel Smith, formerly in S/ES
- Stephen Mull, formerly in S/ES
- Lewis Lukens, formerly in S/ES
- Cheryl Mills through counsel, formerly in S
- Gene Smilansky, L
- Jonathan Davis, L
- Janice Jacobs, Transparency Coordinator
- Michael Kirby, Deputy Transparency Coordinator
- Reached out to John Bentel through counsel, who declined to speak with State
- Reached out to Huma Abedin through counsel, but was unable to reach her prior to deposition



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

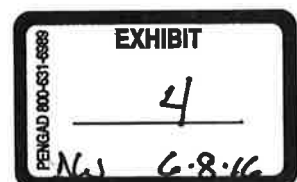
JUDICIAL WATCH, INC.,)	
)	
Plaintiff,)	Civil Action No. 13-CV-1363 (EGS)
)	
v.)	
)	
UNITED STATES DEPARTMENT OF)	
STATE,)	
)	
Defendant.)	
_____)	

DEFENDANT'S STATUS REPORT

At the conclusion of the Court's Order dated July 31, 2015, the Court directed defendant United States Department of State (Department) to inform the Court of the status of its compliance with the Order by August 7, 2015. Accordingly, the Department reports as follows.

1. In the initial, unnumbered part of the Court's Order, the Court directed the Department to file the letters that it previously sent to former Secretary Clinton, Huma Abedin, and Cheryl Mills regarding federal records in their possession, as well as the responses that the Department received. The Department filed those letters and responses on August 6, 2015. See Notice of Filing (ECF No. 18). On the day the Department made this filing, it received another responsive letter from Ms. Mills' counsel, a copy of which is attached hereto as Exhibit A.

2. The Department has also complied with subparts 2 and 3 of the Court's Order. On August 5, 2015, the Department wrote to the former Secretary, Ms. Abedin, and Ms. Mills, requesting that these individuals provide it with the information that the Court ordered it to request regarding federal records in their possession. Copies of these letters are attached hereto as Exhibits B, C, and D. On August 6, 2015, counsel for Ms. Abedin responded to the



Department's requests for federal records in her possession. A copy of this letter is attached hereto as Exhibit E. On August 6, 2015, counsel for Ms. Mills responded to the Department's August 5 letter. A copy of that letter to is attached hereto as Exhibit F. The Department has not yet received a response to its letter from the former Secretary.

3. The Department is in the process of responding to subpart 1 of the Court's Order regarding servers, accounts, hard drives, or other devices that may contain information responsive to plaintiff's Freedom of Information Act request in this case. The Department anticipates submitting a response to this inquiry by August 14, 2015.

Dated: August 7, 2015

Respectfully submitted,

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General

MARCIA BERMAN
Assistant Director

/s/ Peter T. Wechsler
PETER T. WECHSLER (MA 550339)
Senior Counsel
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, N.W.
Washington, D.C. 20530
Tel.: (202) 514-2705
Fax: (202) 616-8470
Email: peter.wechsler@usdoj.gov
Counsel for Defendant

EXHIBIT A

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
2001 K STREET, NW
WASHINGTON, DC 20006-1047
TELEPHONE (202) 223-7300

1285 AVENUE OF THE AMERICAS
NEW YORK, NY 10019-6064
TELEPHONE (212) 373-3000

UNIT 3601, FORTUNE PLAZA OFFICE TOWER A
NO. 7 DONG SANHUA ZHONGLU
CHAO YANG DISTRICT
BEIJING 100020
PEOPLE'S REPUBLIC OF CHINA
TELEPHONE (86-10) 5828-6300

12TH FLOOR, HONG KONG CLUB BUILDING
3A CHATER ROAD, CENTRAL
HONG KONG
TELEPHONE (852) 2848-0300

ALDER CASTLE
10 NOBLE STREET
LONDON EC2V 7JU, U.K.
TELEPHONE (44 20) 7367 1600

FUKOKU SEIMEI BUILDING
2-2 UCHISAIWAICHO 2-CHOME
CHIYODA-KU, TOKYO 100-0011, JAPAN
TELEPHONE (81-3) 3597-8101

TORONTO-DOMINION CENTRE
77 KING STREET WEST, SUITE 3100
P.O. BOX 226
TORONTO, ONTARIO M5K 1J3
TELEPHONE (416) 504-0520

500 DELAWARE AVENUE, SUITE 200
POST OFFICE BOX 32
WILMINGTON, DE 19899-0032
TELEPHONE (302) 655-4410

WRITER'S DIRECT DIAL NUMBER

202-223-7340

WRITER'S DIRECT FACSIMILE

202-204-7395

WRITER'S DIRECT E-MAIL ADDRESS

bwilkinson@paulweiss.com

August 6, 2015

By Hand

Patrick F. Kennedy
Under Secretary for Management
United States Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Under Secretary Kennedy:

I am writing in response to your letter dated July 31, 2015, and received on August 3, 2015, requesting that Ms. Mills return potential records in her possession to the Department of State as soon as possible.

As you know, Ms. Mills received a request from the Department of State on March 11, 2015 that she assist the Department by preserving any potential federal records in her custody. On June 25, 2015, Ms. Mills provided a subset of potential federal records in her possession to the Department of State for review. She has provided additional documents to counsel for review in response to the March 11, 2015 letter. The review process is nearing completion and I expect to produce additional documents for the Department's review in an electronic format on August 10, 2015.

Ms. Mills does not believe that she has paper copies of potential federal records in her possession. Following our production on August 10, 2015, we have instructed her to delete any and all electronic copies in her possession.

Given that the documents Ms. Mills produced and will produce to the State Department are the subject of inquiries, Paul, Weiss will maintain an electronic version of the Mills production at our office until we receive additional instructions from you regarding this material. In the event that you request, due to concerns over potential reclassification, that we delete the copy maintained by Paul, Weiss, we ask that you expeditiously inform us and arrange access to those documents for Ms. Mills and her counsel as you offered in your letter.

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

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Finally, we request that the Department promptly return any document previously provided or that will be provided by Ms. Mills that has been or will be determined not to be a federal record.

Sincerely,

A handwritten signature in black ink, appearing to read "Beth A. Wilkinson", with a stylized flourish at the end.

Beth A. Wilkinson

EXHIBIT B

**UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON**

AUG - 5 2015

Mr. David E. Kendall, Esq
Williams & Connolly LLP
725 12th Street, NW
Washington, DC 20005

Dear Mr. Kendall:

As you know, the Department requested that your client, former Secretary of State Hillary Clinton, provide it with any federal records in her possession, such as an email sent or received on a personal email account while serving as Secretary of State, if there is reason to believe that it may not otherwise be preserved in the Department's recordkeeping system. Your client has produced approximately 55,000 pages of documents in response. I am writing to you now regarding additional requests the Department has been ordered to make of your client in a Freedom of Information Act ("FOIA") case, *Judicial Watch v. Department of State* (D.D.C. No. 13-cv-1363).

On July 31, 2015, the United States District Court in the *Judicial Watch* case ordered the Department to make two requests of your client, related to the FOIA requests at issue in that case. Those FOIA requests seek the following information:

- Any and all SF-50 (Notification of Personnel Action) forms for Huma Abedin;
- Any and all contracts (including, but not limited to, personal service contracts) between the Department of State and Ms. Abedin; and
- Any and all records regarding, concerning, or related to the authorization for Ms. Abedin to represent individual clients and/or otherwise engage in outside employment while employed by and/or engaged in a contractual arrangement with the Department of State.

Pursuant to the Court's order, a copy of which is attached, the Department requests that your client:

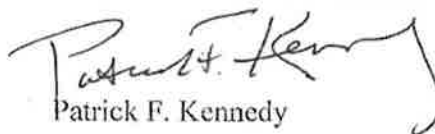
- Confirm, under penalty of perjury, that she has produced all responsive information that was or is in her possession as a result of her employment at the State Department. If all such information has not yet been produced, please produce the information forthwith, and
- Describe, under penalty of perjury, the extent to which Ms. Abedin and Ms. Mills used Mrs. Clinton's email server to conduct official government business.

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In the event you have any questions regarding the transfer of the records to the Department, please contact the Agency Records Officer, William Fischer, at (202) 261-8369. In the meantime, I would appreciate it if you would confirm receipt of this letter and respond to the above requests for information in writing as soon as possible.

Enclosure

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick F. Kennedy". The signature is stylized with a large, sweeping "K" and a long horizontal stroke extending to the right.

Patrick F. Kennedy

----- Original message -----

From: DCD_ECFNotice@dcd.uscourts.gov

Date: 07/31/2015 5:47 PM (GMT-05:00)

To: DCD_ECFNotice@dcd.uscourts.gov

Subject: Activity in Case 1:13-cv-01363-EGS JUDICIAL WATCH, INC. v. DEPARTMENT OF STATE Order

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NOTE TO PUBLIC ACCESS USERS Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 7/31/2015 at 5:46 PM and filed on 7/31/2015

Case Name: JUDICIAL WATCH, INC. v. DEPARTMENT OF STATE

Case Number: 1:13-cv-01363-EGS <<http://redirect.state.sbu/?url=https://ecf.dcd.uscourts.gov/cgi-bin/DktRpt.pl?161905>>

Filer:

Document Number: No document attached

Docket Text:

MINUTE ORDER. As agreed by the parties at the July 31, 2015 status hearing, the Government shall produce a copy of the letters sent by the State Department to Mrs. Hillary Clinton, Ms. Huma Abedin and Ms. Cheryl Mills regarding the collection of government records in their possession. These communications shall be posted on the docket forthwith. The Government has also agreed to share with Plaintiffs counsel the responses sent by Mrs. Clinton, Ms. Abedin and Ms. Mills. These communications shall also be posted on the docket forthwith. In addition, as related to Judicial Watch's FOIA requests in this case, the Government is HEREBY ORDERED to: (1) identify any and all servers, accounts, hard drives, or other devices currently in the possession or control of the State Department or otherwise that may contain responsive information; (2) request that the above named individuals confirm, under penalty of perjury, that they have produced all responsive information that was or is in their possession as a result of their employment at the State Department. If all such information has not yet been produced, the Government shall request the above named individuals produce the information forthwith; and (3) request that the above named individuals describe, under penalty of perjury, the extent to which Ms. Abedin and Ms. Mills used Mrs. Clinton's email server to conduct official government business. The Government shall inform the Court of the status of its compliance with this Order no later than August 7, 2015, including any response received from Mrs. Clinton, Ms. Abedin and Ms. Mills. Signed by Judge Emmet G. Sullivan on July 31, 2015. (lcegs4)

1:13-cv-01363-EGS Notice has been electronically mailed to:

Paul J. Orfanedes porfanedes@judicialwatch.org, jwlegal@judicialwatch.org

Peter T. Wechsler peter.wechsler@usdoj.gov

Michael Bekesha mbekesha@judicialwatch.org, jwlegal@judicialwatch.org

1:13-cv-01363-EGS Notice will be delivered by other means to::

EXHIBIT C

UNDER SECRETARY OF STATE

FOR MANAGEMENT

WASHINGTON

AUG - 5 2015

Ms. Karen L. Dunn
Boies, Schiller & Flexner LLP
5301 Wisconsin Avenue, NW
Washington, DC 20015

Mr. Miguel E. Rodriguez
Bryan Cave LLP
1155 F Street NW
Washington, DC 20004

Dear Ms. Dunn and Mr. Rodriguez:

As you know, the Department requested that your client, Ms. Huma Abedin, provide it with any federal records in her possession, such as emails sent or received on a personal email account while serving in her official capacity at the Department, if there is any reason to believe that those records may not otherwise be preserved in the Department's recordkeeping system. Your client has produced documents in response and has indicated that additional documents responsive to the Department's request for potential federal records would be forthcoming. I am writing to you now regarding additional requests the Department has been ordered to make of your client in a Freedom of Information Act ("FOIA") case, *Judicial Watch v. Department of State* (D.D.C. No. 13-cv-1363).

On July 31, 2015, the United States District Court in the *Judicial Watch* case ordered the Department to make two requests of your client, related to the FOIA requests at issue in that case. Those FOIA requests seek the following information:

- Any and all SF-50 (Notification of Personnel Action) forms for Huma Abedin;
- Any and all contracts (including, but not limited to, personal service contracts) between the Department of State and Ms. Abedin; and
- Any and all records regarding, concerning, or related to the authorization for Ms. Abedin to represent individual clients and/or otherwise engage in outside employment while employed by and/or engaged in a contractual arrangement with the Department of State.

Pursuant to the Court's order, a copy of which is attached, the Department requests that your client:

- Confirm, under penalty of perjury, that she has produced all responsive information that was or is in her possession as a result of her employment at the State Department. If all such information has not yet been produced, please produce the information forthwith, and

- Describe, under penalty of perjury, the extent to which she used Mrs. Clinton's email server to conduct official government business.

In the event you have any questions regarding the transfer of the records to the Department, please contact the Agency Records Officer, William Fischer, at (202) 261-8369. In the meantime, I would appreciate it if you would confirm receipt of this letter and respond to the above requests for information in writing as soon as possible.

Enclosure

Sincerely,


Patrick F. Kennedy

----- Original message -----

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Michael Bekesha mbekesha@judicialwatch.org, jwlegal@judicialwatch.org

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EXHIBIT D

**UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON**

AUG - 5 2015

Ms. Beth A. Wilkinson
Paul, Weiss, Rifkind, Wharton & Garrett
2001 K Street NW
Washington, DC 20006-1047

Dear Ms. Wilkinson:

As you know, the Department requested that your client, Ms. Cheryl Mills, provide it with any federal records in her possession, such as emails sent or received on a personal email account while serving in her official capacity at the Department, if there is any reason to believe that those records may not otherwise be preserved in the Department's recordkeeping system. In response, your client has produced documents that may potentially be federal records and has indicated that additional documents may be forthcoming. I am writing to you now regarding additional requests the Department has been ordered to make of your client in a Freedom of Information Act ("FOIA") case, *Judicial Watch v. Department of State* (D.D.C. No. 13-cv-1363).

On July 31, 2015, the United States District Court in the *Judicial Watch* case ordered the Department to make two requests of your client, related to the FOIA requests at issue in that case. Those FOIA requests seek the following information:

- Any and all SF-50 (Notification of Personnel Action) forms for Huma Abedin;
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- Any and all records regarding, concerning, or related to the authorization for Ms. Abedin to represent individual clients and/or otherwise engage in outside employment while employed by and/or engaged in a contractual arrangement with the Department of State.

Pursuant to the Court's order, a copy of which is attached, the Department requests that your client:

- Confirm, under penalty of perjury, that she has produced all responsive information that was or is in her possession as a result of her employment at the State Department. If all such information has not yet been produced, please produce the information forthwith, and
- Describe, under penalty of perjury, the extent to which she used Mrs. Clinton's email server to conduct official government business.

2

In the event you have any questions regarding the transfer of the records to the Department, please contact the Agency Records Officer, William Fischer, at (202) 261-8369. In the meantime, I would appreciate it if you would confirm receipt of this letter and respond to the above requests for information in writing as soon as possible.

Enclosure

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick F. Kennedy", with a long, sweeping horizontal stroke extending to the right.

Patrick F. Kennedy

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Date: 07/31/2015 5:47 PM (GMT-05:00)

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Michael Bekesha mbekesha@judicialwatch.org, jwlegal@judicialwatch.org

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EXHIBIT E

August 6, 2015

By Email

Patrick F. Kennedy
Under Secretary for Management
United States Department of State
2201 C Street, NW
Washington, DC 20520

Dear Under Secretary Kennedy:

We write to ensure that there is clarity about Ms. Abedin's considerable efforts and diligence in complying with your request dated March 11, 2015, which seeks Ms. Abedin's assistance in meeting the requirements of a subpoena to Secretary John Kerry from the House Select Committee on Benghazi ("Committee"), and in properly preserving any potential federal records in Ms. Abedin's possession. Because we believe it is important to accurately represent the status of Ms. Abedin's productions to the Department, we request that the Department share this correspondence, or the details contained herein, with parties asking about her cooperation.

As we explained in our June 29, 2015 letter to you, Ms. Abedin's initial ability to respond was impeded by the Department's failure to ensure that the request timely reached Ms. Abedin. Your March 11, 2015 letter was sent by mail to an incorrect address and returned undelivered to the Department on April 17, 2015. Over one month later, on May 19, 2015 we received your letter via mail, along with the returned envelope (indicating the April 17, 2015 date) and a cover note dated May 12, 2015 explaining that the letter had been returned undelivered. Similarly, we understand that your office attempted to send an email copy of the March 11, 2015 letter to Ms. Abedin, but that the email was sent to two email addresses that had not been active for years, an old United States Senate email address (@clinton.senate.gov) and an old email address associated with Former Secretary Clinton's 2008 Presidential campaign (@hillaryclinton.com).

As a consequence of the Department's three failed delivery attempts, Ms. Abedin received the Department's request for documents more than two months after it was intended to reach her. Immediately upon receiving the Department's request, Ms. Abedin began taking steps to respond and since that time has been working expeditiously to provide documents to the Department. It should go without saying that there is nothing she could have done prior to May 19, 2015, given that no one at the Department reached out to Ms. Abedin or her counsel regarding your March 11, 2015 letter request.

Notwithstanding this, Ms. Abedin has already made an initial production of potential federal records to the Department. We prioritized the request of the Department for assistance in complying with the Committee's subpoena to Secretary Kerry for Ms. Abedin's documents and emails broadly relating to Libya, in part because we understand the Department has been working to provide such documents to the Committee since the Committee first requested them of the Department in 2014. On July 9, Ms. Abedin produced to the Department 338 pages of

Patrick F. Kennedy
Page 2 of 2
August 6, 2015

potential federal records in her possession that are potentially responsive to the Committee's subpoena to the Department.

We have been working expeditiously to gather the remaining materials in Ms. Abedin's possession that are responsive or potentially responsive to your request. Despite the Department's delay in delivering that request, because of Ms. Abedin's diligence and expeditious review, we expect to be able to make a production on August 7 and a final production on or before August 28.

Please let us know if you have any questions. We look forward to our continued cooperation with the Department.

Sincerely,

/s/ Karen L. Dunn
Karen L. Dunn
Boies, Schiller & Flexner LLP
5301 Wisconsin Avenue, NW
Washington, DC 20015

/s/ Miguel E. Rodriguez
Miguel E. Rodriguez
Bryan Cave LLP
1155 F Street, NW
Washington, DC 20004

cc: Richard Visek
Office of the Legal Adviser

EXHIBIT F

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
2001 K STREET, NW
TELEPHONE (202) 223-7300
WASHINGTON, DC 20006-1047

1285 AVENUE OF THE AMERICAS
NEW YORK, NY 10019-6084
TELEPHONE (212) 373-3000

UNIT 3601, FORTUNE PLAZA OFFICE TOWER A
NO. 7 DONG SANHUA ZHONGLU
CHAO YANG DISTRICT
BEIJING 100020
PEOPLE'S REPUBLIC OF CHINA
TELEPHONE (86-10) 5828-6300

12TH FLOOR, HONG KONG CLUB BUILDING
3A CHATER ROAD, CENTRAL
HONG KONG
TELEPHONE (852) 2846-0300

ALDER CASTLE
10 NOBLE STREET
LONDON EC2V 7JU, U.K.
TELEPHONE (44 20) 7367 1600

FUKOKU SEIMEI BUILDING
2-2 UCHISAIWAICHO 2-CHOME
CHIYODA-KU, TOKYO 100-0011, JAPAN
TELEPHONE (81-3) 3597-8101

TORONTO-DOMINION CENTRE
77 KING STREET WEST, SUITE 3100
P.O. BOX 226
TORONTO, ONTARIO M5K 1J3
TELEPHONE (416) 504-0520

500 DELAWARE AVENUE, SUITE 200
POST OFFICE BOX 32
WILMINGTON, DE 19899-0032
TELEPHONE (302) 655-4410

WRITER'S DIRECT DIAL NUMBER

202-223-7340

WRITER'S DIRECT FACSIMILE

202-204-7395

WRITER'S DIRECT E-MAIL ADDRESS

bwilkinson@paulweiss.com

August 6, 2015

By Hand

Patrick F. Kennedy
Under Secretary for Management
United States Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Under Secretary Kennedy:

I am in receipt of your letter dated August 5, 2015 regarding requests the Department of State has been ordered to make of my client Cheryl Mills in a Freedom of Information Act case, *Judicial Watch v. Department of State* (D.D.C. No. 13-cv-1363).

As a preliminary matter, I want to ensure the Department knows that Ms. Mills is not presently a government employee or a party to this lawsuit. I do want to take this opportunity, however, to clarify two things on her behalf in hopes that the Department can accurately describe Ms. Mills's tenure and circumstances at the State Department.

First, Ms. Mills did not have an account on Secretary Clinton's email server. Second, Ms. Mills has not been asked previously for any records responsive to this FOIA matter. She is not in a position to know what records are responsive and she therefore assumes that the Department has provided any records that reside in Department of State files. As you know, Ms. Mills received a request from the Department of State on March 11, 2015 that she assist the Department by preserving any potential federal records in her custody. On June 25, 2015, Ms. Mills provided a subset of potential federal records in

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

2

her possession to the Department of State for review. She has provided additional documents to counsel for review in response to the March 11, 2015 letter. The review process is nearing completion and I expect to produce additional documents for the Department's review on August 10, 2015.

Sincerely,

A handwritten signature in dark ink, appearing to read "Beth A. Wilkinson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Beth A. Wilkinson

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JUDICIAL WATCH, INC.,)	
)	
Plaintiff,)	Civil Action No. 13-CV-1363 (EGS)
)	
v.)	
)	
UNITED STATES DEPARTMENT OF)	
STATE,)	
)	
Defendant.)	
_____)	

SUPPLEMENT TO DEFENDANT'S AUGUST 7, 2015 STATUS REPORT

This is to supplement paragraph 2 of the August 7, 2015 Status Report filed by the U.S. Department of State. Attached hereto as Exhibit A is a Declaration dated August 8, 2015 from former Secretary Clinton.

Dated: August 10, 2015

Respectfully submitted,

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General

MARCIA BERMAN
Assistant Director

/s/ Peter T. Wechsler
PETER T. WECHSLER (MA 550339)
Senior Counsel
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, N.W.
Washington, D.C. 20530
Tel.: (202) 514-2705
Fax: (202) 616-8470
Email: peter.wechsler@usdoj.gov
Counsel for Defendant



DECLARATION

I, Hillary Rodham Clinton, declare under penalty of perjury that the following is true and correct:

- 1) While I do not know what information may be “responsive” for purposes of this law suit, I have directed that all my e-mails on clintonemail.com in my custody that were or potentially were federal records be provided to the Department of State, and on information and belief, this has been done.
- 2) As a result of my directive, approximately 55,000 pages of these e-mails were produced to the Department on December 5, 2014.
- 3) Cheryl Mills did not have an account on clintonemail.com. Huma Abedin did have such an account which was used at times for government business.

A handwritten signature in black ink, appearing to read "HRC Clinton", written over a horizontal line.

Hillary Rodham Clinton

Executed on August 8, 2015.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JUDICIAL WATCH, INC.,)	
)	
Plaintiff,)	Civil Action No. 13-CV-1363 (EGS)
)	
v.)	
)	
UNITED STATES DEPARTMENT OF)	
STATE,)	
)	
Defendant.)	
_____)	

DEFENDANT'S STATUS REPORT

Pursuant to the Court's August 20, 2015 Minute Order, defendant U.S. State Department ("State") submits this status report. In its minute order, the Court ordered State to "request that the Federal Bureau of Investigation (FBI) inform it about any information recovered from [former Secretary of State Hillary] Clinton's server and the related thumb drive that is: (a) potentially relevant to the FOIA request at issue in this case; and (b) not already in the State Department's possession." The Court also ordered State to file a status report by September 21 on the following issues: "(1) the process agreed upon between the FBI and the State Department for the sharing of information relevant to this lawsuit; (2) the status of the Inspector General of the State Department's report regarding Mrs. Clinton's use of a private server; and (3) a timetable for the completion of any ongoing searches related to this lawsuit." Aug. 20, 2015 Minute Order. The Court subsequently ordered State to include in its September 21 status report information about the volume of documents it has received from Cheryl Mills and Huma Abedin. Sept. 11, 2015 Minute Order.



I. Request to the FBI and Communications Between State and the FBI

On September 2, 2015, State sent a letter to the FBI, requesting that the FBI inform it about any information recovered from former Secretary Clinton's server and the related thumb drive that is potentially relevant to the FOIA request at issue in this case and is not already in State's possession. Sept. 2, 2015 letter, attached hereto as Exh. A. The letter summarized the scope of the FOIA request at issue in this case, and asked the FBI to respond in writing to this letter in advance of the due date of this status report. *Id.*

State sent a second letter to the FBI regarding these issues on September 14, 2015. In that letter, State first requested from the FBI "an electronic copy of the approximately 55,000 pages identified as potential federal records and produced on behalf of former Secretary Clinton to the Department of State on December 5, 2014." Sept. 14, 2015 letter, attached hereto as Exh. B. Second, State requested that, "to the extent the FBI recovers any potential federal records that may have existed on the server at various points in time in the past, [the FBI] apprise the [State] Department insofar as such records correspond with Secretary Clinton's tenure at the Department of State." *Id.* Third, State requested that, "[b]ecause of [State's] commitment to preserving its federal records, . . . any recoverable media and content be preserved by the FBI so that we can determine how best to proceed." *Id.*

On September 21, 2015, State received a response from the FBI to its September 2 letter. A copy of the FBI's response is attached hereto as Exhibit C. The substance of that response is as follows: "At this time, consistent with long-standing Department of Justice and FBI policy, we can neither confirm nor deny the existence of any ongoing investigation, nor are we in a position to provide additional information at this time." *Id.*

II. Status of the State Department Inspector General's Report

The State Department Office of Inspector General ("OIG") reports as follows with respect to the status of its investigation regarding former Secretary Clinton's use of a private server: In April 2015, OIG's Office of Evaluations and Special Projects began a review of State's policies and procedures concerning the use, if any, by the past five Secretaries (Albright through Kerry) and their immediate staffs of non-departmental hardware and software to conduct official business. The review is assessing, among other matters, efforts undertaken by State to ensure that: (i) communications were and are conducted securely; (ii) government records were and are properly identified and preserved; and (iii) government records were and are properly processed pursuant to the FOIA. OIG expects to issue multiple reports on these issues in the coming months.

OIG has already issued a series of memoranda in conjunction with the Inspector General for the Intelligence Community ("ICIG"), which are publicly available on OIG's website. In June 2015, OIG and ICIG conducted a review of the process that State was using to release former Secretary Clinton's emails under the FOIA. As a result of this joint review, on July 6, 2015, ICIG referred to the FBI's Counterintelligence Division issues associated with the classification of emails and documents by former Secretary Clinton and her immediate staff, and the existence of such classified information on the former Secretary's personal server.

III. Timetable for Completion of Ongoing Searches and Information About the Volume of Documents from Cheryl Mills and Huma Abedin

State anticipates that it will complete by October 20, 2015 the remaining searches of documents that are in State's possession and will then have a basis to estimate the volume of potentially responsive records that will require further review. This timeframe takes into account

the volume of additional documents State has received from Ms. Mills and Ms. Abedin, as discussed below, and the revised searches State is conducting, using the search terms and date range agreed upon by the parties, of the State Department offices and agency records systems that were initially searched (most of which are completed). See Defendant's July 30, 2015 Status Report (ECF No. 17) at 3. On September 18, 2015, State produced to Plaintiff 48 pages of responsive records from these offices and record systems.

In August and September 2015, Ms. Mills and Ms. Abedin, through counsel, provided State with additional emails from non-state.gov accounts. Ms. Mills delivered additional materials to State on August 10 and 12. On August 10, the Department received 120 megabytes of electronic files containing 666 email files and 106 attachment folders. On August 12, the Department received 100 megabytes of electronic files and hard copy documents consisting of approximately one cubic foot of paper records, comprising an estimated 3,000 pages. Ms. Abedin delivered additional materials to State on August 7 and September 1. On August 7, the Department received 35.5 megabytes of data consisting of one PDF file containing 2,185 pages of documents. On September 1, the Department received 1.4 gigabytes of electronic files containing 348 pages of documents and 6,714 emails. Further information regarding the documents received from Ms. Mills and Ms. Abedin is contained in the September 18 status report filed in Leopold v. State (C.A. no. 15-cv-123-RC), attached hereto as Exhibit D.

State is conducting searches of these newly provided documents, using the search terms and date range agreed upon by the parties. It searched Ms. Mills' August 10 production and found no responsive records, and it searched Ms. Abedin's August 7 production and likewise

found no responsive records.¹ State proposes to file a status report by October 26, 2015 in which it would propose a production deadline for any potentially responsive, non-exempt records based on the volume of responsive records identified by the search.

Dated: September 21, 2015

Respectfully submitted,

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General

MARCIA BERMAN
Assistant Director

/s/ Peter T. Wechsler
PETER T. WECHSLER (MA 550339)
Senior Counsel
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, N.W.
Washington, D.C. 20530
Tel.: (202) 514-2705
Fax: (202) 616-8470
Email: peter.wechsler@usdoj.gov
Counsel for Defendant

¹ The same is true for the documents that Ms. Mills and Ms. Abedin provided to State prior to August 2015. See July 30 Status Report at 2.



United States Department of State

Washington, D.C. 20520

September 2, 2015

James A. Baker
General Counsel
Federal Bureau of Investigations
935 Pennsylvania Avenue, NW
Washington, D.C. 20535-0001

Dear Mr. Baker:

I am writing to you regarding a request the Department of State ("Department") has been ordered to make of the Federal Bureau of Investigation ("FBI") in a Freedom of Information Act ("FOIA") case, *Judicial Watch v. Department of State* (D.D.C. No. 13-cv-1363).

The underlying FOIA request at issue in the above-referenced case seeks the following information:

- Any and all SF-50 (Notification of Personnel Action) forms for Huma Abedin;
- Any and all contracts (including, but not limited to, personal service contracts) between the Department of State and Ms. Abedin; and
- Any and all records regarding, concerning, or related to the authorization for Ms. Abedin to represent individual clients and/or otherwise engage in outside employment while employed by and/or engaged in a contractual arrangement with the Department of State.

Pursuant to the Court's order of August 20, 2015 (the "Order"), a copy of which is attached, the Department requests that the FBI "inform it about any information recovered from [former Secretary Hillary] Clinton's server and the related thumb drive that is: (a) potentially relevant to the FOIA request at issue in this case; and (b) not already in the Department's possession."

Please confirm receipt of this letter and respond to the above request for information in writing on or before September 14, 2015, as the Court has directed the Department to file a status report with the Court no later than September 21, 2015, informing the Court of "the process agreed upon between the FBI and the State Department for sharing of information relevant to this lawsuit."

Sincerely,

A handwritten signature in cursive script that reads "Mary E. McLeod".

Mary E. McLeod
Principal Deputy Legal Adviser

From: DOD_ECFNotice@dcd.uscourts.gov
To: DOD_ECFNotice@dcd.uscourts.gov
Subject: Activity in Case 1:13-cv-01363-EGS JUDICIAL WATCH, INC. v. DEPARTMENT OF STATE Order
Date: Thursday, August 20, 2015 4:26:35 PM

This is an automatic e-mail message generated by the CM/ECF system. Please **DO NOT RESPOND** to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 8/20/2015 at 4:25 PM and filed on 8/20/2015

Case Name: JUDICIAL WATCH, INC. v. DEPARTMENT OF STATE

Case Number: [1:13-cv-01363-EGS](#)

Filer:

Document Number: No document attached

Docket Text:

MINUTE ORDER. For the reasons stated by the Court at the August 20, 2015 status hearing, and as agreed to by Defendant's counsel, the State Department is hereby ordered to request that the Federal Bureau of Investigation (FBI) inform it about any information recovered from Mrs. Clinton's server and the related thumb drive that is: (a) potentially relevant to the FOIA request at issue in this case; and (b) not already in the State Department's possession. The State Department shall file a status report, no later than Monday, September 21, 2015 at 12:00 p.m., informing the Court of the following: (1) the process agreed upon between the FBI and the State Department for the sharing of information relevant to this lawsuit; (2) the status of the Inspector General of the State Department's report regarding Mrs. Clinton's use of a private server; and (3) a timetable for the completion of any ongoing searches related to this lawsuit. Signed by Judge Emmet G. Sullivan on August 20, 2015. (lcegs4)

1:13-cv-01363-EGS Notice has been electronically mailed to:

Paul J. Orfanedes porfanedes@judicialwatch.org, jwlegal@judicialwatch.org

Peter T. Wechsler peter.wechsler@usdoj.gov

Michael Bekesha mbekesha@judicialwatch.org, jwlegal@judicialwatch.org

1:13-cv-01363-EGS Notice will be delivered by other means to::

**UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON**

SEP 14 2015

Dear Mr. Comey:

We understand that the Federal Bureau of Investigation (FBI) has obtained the private server used by former Secretary Clinton to operate her personal email account along with one or more related thumb drives. While we do not want to interfere with the FBI's review, the Department of State has an interest in preserving its federal records and, therefore, requests the FBI's assistance.

On May 22, 2015, the Department requested from former Secretary Clinton's attorney, David Kendall, that he provide an electronic copy of the approximately 55,000 pages identified as potential federal records and produced on behalf of former Secretary Clinton to the Department of State on December 5, 2014. (See Enclosure A) On June 15, 2015, Mr. Kendall replied that, pursuant to my request, he would "copy onto a disc the electronic version of the e-mails previously produced in hard copy to the Department on December 5, 2014." (See Enclosure B) Before Mr. Kendall could provide that disc to the Department, however, we understand that the FBI obtained the relevant electronic media. Accordingly, we request from the FBI an electronic copy of the approximately 55,000 pages identified as potential federal records and produced on behalf of former Secretary Clinton to the Department of State on December 5, 2014. This request is in accordance with counsel we have received from the National Archives and Records Administration (NARA). (See Enclosure C)


Additionally, to the extent the FBI recovers any potential federal records that may have existed on the server at various points in time in the past, we request that you apprise the Department insofar as such records correspond with Secretary Clinton's tenure at the Department of State. Because of the Department's commitment to preserving its federal records, we also ask that any recoverable media and content be preserved by the FBI so that we can determine how best to proceed.

The Honorable
James B. Comey,
Director,
Federal Bureau of Investigation,
935 Pennsylvania Avenue, N.W.,
Washington, D.C. 20535-0001.

-2-

We thank you in advance for your attention to this matter and look forward to coordinating with you.

Sincerely,



Patrick F. Kennedy

Enclosures:

As stated.

cc: James A. Baker, FBI/OGC
Gary Stern, NARA/OGC

**UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON**

MAY 22 2015

CORRECTED COPY

David E. Kendall, Esq.
Williams & Connolly LLP
725 12th Street, NW
Washington, DC 20005

Dear Mr. Kendall:

I am writing in reference to the following e-mail that is among the approximately 55,000 pages that were identified as potential federal records and produced on behalf of former Secretary Clinton to the Department of State on December 5, 2014: E-mail forwarded by Jacob Sullivan to Secretary Clinton on November 18, 2012 at 8:44 pm (Subject: Fw: FYI- Report of arrests – possible Benghazi connection).

Please be advised that today the above referenced e-mail, which previously was unclassified, has been classified as "Secret" pursuant to Section 1.7(d) of Executive Order 13526 in connection with a review and release under the Freedom of Information Act (FOIA). In order to safeguard and protect the classified information, I ask – consistent with my letter to you dated March 23, 2015 - that you, Secretary Clinton and others assisting her in responding to congressional and related inquiries coordinate in taking the steps set forth below. A copy of the document as redacted under the FOIA is attached to assist you in your search.

Electronic Records

- 1) Consistent with my March 23 letter, and to the extent the documents are stored electronically, please copy onto a digital video disc (DVD) or compact disc (CD) the approximately 55,000 pages. If available, the Department would ask that the documents be provided in native electronic format with the associated metadata. These steps are in accordance with counsel we have received from the National Archives and Records Administration.
- 2) Once the copy has been made place the disc(s) in a brown envelope, seal it, address it to Richard Visek, Deputy Legal Adviser, U.S. Department of State, Washington, D.C., and mark the word "SECRET" on the outside of that envelope. Once that is done, please notify us and we will pick up the envelope from your office.
- 3) Once you have made the electronic copy of the documents for the Department, please locate any electronic copies of the above-referenced classified document in your possession. If you locate any electronic copies, please delete them. Additionally, once you have done that, please empty your "Deleted Items" folder.

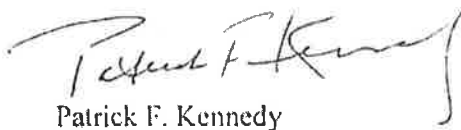
Non-Electronic Copies

- 1) Please locate any non-electronic copies of the classified document in your possession.
- 2) Place any copies of the document that you locate in a brown envelope, seal it, address it to Richard Vissek, Deputy Legal Adviser, U.S. Department of State, Washington, D.C., and mark the word "SECRET" on the outside of that envelope. Once that is done, please notify us and we will pick up the envelope from your office.

Finally, please note that the classification of this document pursuant to Executive Order 13526, Section 1.7(d), does not in itself indicate that any person previously acted improperly with respect to the document or the information contained therein.

If you should have any questions regarding the steps set forth above, please contact Richard Vissek in the Office of the Legal Adviser. In the meantime, I ask that you confirm receipt of this letter as soon as possible.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Patrick F. Kennedy", with a stylized flourish at the end.

Patrick F. Kennedy

LAW OFFICES
WILLIAMS & CONNOLLY LLP

725 TWELFTH STREET, N.W.

WASHINGTON, D. C. 20005-5901

(202) 434-5000

FAX (202) 434-5029

DAVID E. KENDALL
(202) 434-5145
dkendall@wc.com

EDWARD BENNETT WILLIAMS (1928-1998)
PAUL R. CONNOLLY (1928-1978)

rec'd 6/15/15

June 15, 2015

BY HAND

Mr. Patrick F. Kennedy
Under Secretary of State for Management
United States Department of State
2201 C Street NW
Washington, DC 20520-6421

Dear Mr. Kennedy:

Thank you for your letter dated May 22, 2015, referencing an e-mail which former Secretary Clinton produced to the State Department on December 5, 2014 (e-mail forwarded by Jacob Sullivan to Secretary Clinton on November 18, 2012, at 8:44 pm (Subject: Fw: FYI-Report of arrests—possible Benghazi connection)). You note that this e-mail, while previously unclassified, was recently classified "Secret", pursuant to Section 1.7(d) of Executive Order 13526, following a Freedom of Information Act review by the State Department.

This will confirm receipt of your letter and that, pursuant to your request, we have located all non-electronic copies of this document in our possession and placed them in a sealed brown envelope, addressed to Deputy Legal Adviser Richard Visek. The envelope was picked up by a State Department representative on May 28, 2015.

This will also confirm that, pursuant to your request, we will copy onto a disc the electronic version of the e-mails previously produced in hard copy to the Department on December 5, 2014. We will arrange for delivery of this disc to the Department as requested in your letter.

This will also confirm that, pursuant to your request, we have deleted all electronic copies of this document, with the following exception. I have received document preservation requests pertaining to the 55,000 pages of e-mails from the House of Representatives Select Committee on Benghazi, the Inspector General of the State Department, and the Inspector General of the Intelligence Community (DNI). I have responded to each preservation request by confirming to the requestor that I would take

WILLIAMS & CONNOLLY LLP

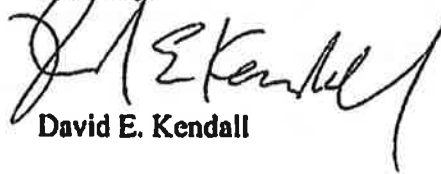
Mr. Patrick F. Kennedy
June 15, 2015
Page 2

Department, and the Inspector General of the Intelligence Community (DNI). I have responded to each preservation request by confirming to the requestor that I would take reasonable steps to preserve these 55,000 pages of former Secretary Clinton's e-mails in their present electronic form. I therefore do not believe it would be prudent to delete, as you request, the above-referenced e-mail from the master copies of the PST file that we are preserving.

Once the document preservation requests referenced above expire, we will proceed to make the requested deletions. This present arrangement would cover the single document recently classified "Secret". Should there be further reclassifications during the Department's FOIA review of former Secretary Clinton's e-mails, it also would cover any such additional documents.

We would be grateful for the return of the 1246 e-mails which the Department, in consultation with the National Archives and Records Administration, has determined not to be federal records, as referenced in the May 6, 2015 letter from NARA's Paul Wester to Ms. Margaret Grafeld, Deputy Assistant Secretary for Global Information Services at the Department.

Sincerely,

A handwritten signature in black ink, appearing to read "D E Kendall", written over the printed name.

David E. Kendall

DEK/bb

WILLIAMS & CONNOLLY LLP

Mr. Patrick F. Kennedy

June 15, 2015

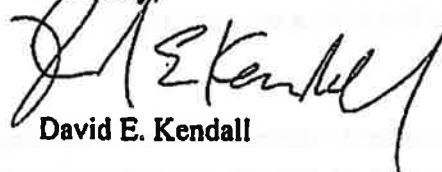
Page 2

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Sincerely,

A handwritten signature in black ink, appearing to read "D E Kendall", written over the typed name.

David E. Kendall

DEK/bb



**NATIONAL
ARCHIVES**

JUL 02 2015

**Margaret P. Grafeld
Deputy Assistant Secretary for Global Information Services
Bureau of Administration
U.S. Department of State
SA-2, Suite 8000
515 22nd Street, NW
Washington, DC 20522-0208**

Dear Ms. Grafeld:

I am in receipt of your letter of April 2, 2015, responding to the National Archives and Records Administration's (NARA) formal request of March 3, 2015, that you provide us with the report required in 36 CFR 1230.14 concerning the potential alienation of Federal email records created and received by former Secretary of State Hillary R. Clinton.

I appreciate the details you have provided to date; however, recognizing that the situation continues to be fluid, there are currently two major questions or concerns that the Department needs to address.

First, in your response you described and forwarded key policy directives issued by the Department in 2014, on records management in general, including specific guidance related to the management of email and other electronic records of senior agency officials. Related to these policies, I am requesting additional information on how the Department implemented these directives with senior officials. More specifically, we would like to understand the specific training, procedures, and other controls the Department employed to ensure the key directives were implemented. This will allow NARA to evaluate whether there are appropriate safeguards in place to prevent the alienation of records from occurring in the future.

Second, as we have discussed, I would like to reiterate our request that the Department contact the representatives of former Secretary Clinton to secure the native electronic versions with associated metadata of the approximately 55,000 hard copy pages of emails provided to the

**NATIONAL ARCHIVES and
RECORDS ADMINISTRATION**

**8601 ADELPHI ROAD
COLLEGE PARK, MD 20740-6001**

www.archives.gov

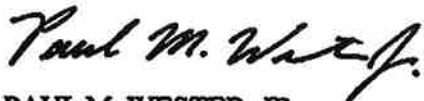
Department. If the Department is unable to obtain the electronic versions of these messages from Secretary Clinton, I am requesting that the Department inquire with the internet service or email provider of former Secretary Clinton, and also of former Secretary Powell, with regard to whether it is still possible to retrieve the email records that may still be present on their servers. As stated in the OMB/NARA M-12-18 *Managing Government Records Directive*, Federal agencies are required by the end of 2016 to maintain all electronic records, including email, in their native electronic format to facilitate active use and future access.

I am aware that there are multiple ongoing inquiries into the details of this case, including by Congressional oversight committees and the Department's Inspector General, which may already be addressing the requests that I have made. I would therefore appreciate continuing updates on the current status of these activities to the extent possible, particularly where the investigations may reveal that the collection Secretary Clinton provided to the Department is incomplete. I also look forward to receiving copies of the final reports of all such investigations, as well as the Department's plans for corrective action. This documentation will assist us in understanding this situation and the Department plans to ensure a comparable situation will not happen in the future.

In closing, I would like to convey my appreciation for the Department's efforts in following up with the representatives of the former Secretary on the many concerns that have surfaced in the past several months. We share many of the Department's concerns and stand ready to provide advice when needed on the records management issues that arise.

I look forward to receiving your response and appreciate your continued attention to this matter.

Sincerely,



PAUL M. WESTER, JR.
Chief Records Officer
for the U.S. Government

cc: Ambassador Patrick F. Kennedy
Under Secretary for Management
Senior Agency Official for Records Management
U.S. Department of State
Washington, DC 20520



U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No.

September 21, 2015

Mary McLeod, Esq.
U.S. Department of State
2201 C Street, NW
Washington, DC 20520

Mary
Dear Ms. McLeod:

I have received your letter dated September 2, 2015 regarding the FOIA case, *Judicial Watch v. Department of State* (D.D.C. No. 13-cv-1363) and your request for information pursuant to the Court's order of August 20, 2015. I understand that the Bureau's response to your letter may be presented to the Court. At this time, consistent with long-standing Department of Justice and FBI policy, we can neither confirm nor deny the existence of any ongoing investigation, nor are we in a position to provide additional information at this time.

Sincerely,

A handwritten signature in cursive script, reading "James A. Baker", is written over the typed name.

James A. Baker
General Counsel

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JASON LEOPOLD,

Plaintiff,

v.

U.S. DEPARTMENT OF STATE,

Defendant.

Civil Action No. 15-cv-123 (RC)

DEFENDANT'S STATUS REPORT

Defendant U.S. Department of State ("State"), in response to the Court's Minute Order of September 11, 2015, respectfully submits this status report:

1. The parties, by agreement, have limited the FOIA request (the "narrowed FOIA request") to (1) all records provided to State by former Secretary of State Clinton as described in Paragraph 10 of the Declaration of John F. Hackett (ECF No. 12-1) ("the Clinton emails"), and (2) all records from the files of several former State officials (some identified by name, some by title) ("the custodians") related to 11 enumerated topics. *See* Order of May 27, 2015 (ECF No. 16).

2. Three of these custodians, Cheryl Mills, Huma Abedin, and Phillippe Reines, recently provided documents to State that must be searched for records responsive to part (2) of the narrowed FOIA request. At the status conference held on September 11, 2015, undersigned counsel told the Court that, before State can search the recently provided documents, it must take steps to make them electronically searchable. The Court then ordered State to file this status report detailing "(1) the estimated number of documents that have been provided by former State Department employees Philippe Reines, Huma Abedin, and Cheryl Mills, respectively, and (2).

how far each of those groups of documents has progressed through the five-step scanning process outlined in [12-1] the Declaration of John H. Hackett [(‘Hackett Declaration’)].” In addition, this status report provides additional information about two questions that the Court asked at the status conference: (1) what declarations have been filed in the various cases that address the Clinton emails; and (2) whether plaintiffs who have filed new FOIA cases that address the Clinton emails have been attempting to relate those new cases to some, but not all, of the existing cases that also address those emails.

STATUS OF DOCUMENT PROCESSING

3. The recently provided documents were received from Ms. Abedin, Ms. Mills, and Mr. Reines in a variety of formats, some paper, some electronic.¹ For this reason, and because State is running searches across the entirety of these collections for purposes of the specific FOIA request but is not reviewing the entirety of these collections for public release, State has tailored the steps it is taking to prepare the documents for electronic searching for individual FOIA requests so that those searches can be completed as quickly as possible. Thus, these steps differ from the five-step process described in the Hackett Declaration that was used to scan and digitize the Clinton emails.

4. Ms. Abedin made three separate submissions of documents; the last submission arrived on September 1, 2015. In total, Ms. Abedin provided the following types of documents: (1) three PDFs containing emails, memos, daily schedules, call lists, notes, and other types of documents, totaling 2,871 pages; and (2) 6,714 individual PDFs, each containing one email of an unknown number of pages. Using an estimate of three pages per email, and adding the 2,871

¹ Ms. Mills, Ms. Abedin, and Mr. Reines have indicated that they have produced to State all potential federal records in their possession.

pages from the three PDFs described in (1), results in a total estimate of approximately 23,000 pages provided by Ms. Abedin. These documents have been loaded onto State's network and stored such that they are electronically searchable at this time.

5. Mr. Reines provided approximately 70,000 pages in hardcopy form on July 28, 2015.² After conducting an initial assessment of the contents of these documents, which comprised 20 boxes, State learned that a large subset of the materials consists of press clippings assembled by the Department on a daily basis and forwarded to Mr. Reines' personal email account; these documents are not responsive to part (2) of the narrowed FOIA request and do not, therefore, need to be made electronically searchable for purposes of this case.³ Those portions of the materials that are *not* press clippings, totaling approximately 16,000 pages, have been loaded onto State's case management system and are electronically searchable at this time.

6. Ms. Mills made three separate submissions of documents; the last submission arrived on August 12, 2015. In total, Ms. Mills provided the following types of documents: (1) approximately 675 emails of unknown size; (2) approximately 1,370 electronic documents of various other types, such as Microsoft Word and PowerPoint files; and (3) one cubic foot box of paper documents, consisting of an estimated 3,000 pages. Using estimates of 3 pages per email and 5 pages per other type of document, State has received a total of approximately 11,870 pages of documents from Ms. Mills. The approximately 2,045 documents described in (1) and (2) have been loaded onto State's network and stored such that they are electronically searchable. To

² Mr. Reines later provided the same documents in electronic format as TIFF (Tagged Image File Format) files, a format commonly used for scanned images. At that point, however, the scanning had proceeded far enough along that State believed it to be faster to continue using the paper copies to load Mr. Reines's documents.

³ Counsel for Plaintiff has confirmed via email that State should interpret part (2) of the narrowed FOIA request to exclude "[p]ublic media articles, public news videos, public news images, or summaries of any of the preceding that may have been circulated within State." See Email from Counsel at 1, attached.

convert the 3,000 pages of paper documents described in (3) to an electronically searchable form, State must scan the documents into searchable PDFs. State anticipates completing this process by September 25, 2015.⁴

DECLARATIONS RELATED TO FOIA PROCESSING AT STATE

7. At the September 11 status conference, the Court asked undersigned counsel if there were other declarations related to the Clinton emails and the recently provided documents, other than those by John F. Hackett that have been filed or cited in this case. There have been two such declarations filed in *Judicial Watch v. U.S. Dep't of State*. See Declaration of Joseph E. McManus, Civ. No. 13-1363 (EGS) (ECF No. 29-1) (D.D.C. Aug. 19, 2015); Declaration of Hillary Rodham Clinton, Civ. No. 13-1363 (EGS) (ECF No. 22-1) (D.D.C. Aug. 10, 2015).

RECENT DESIGNATION OF RELATED CASES BY FOIA PLAINTIFF

8. At the September 11 status conference, the Court asked undersigned counsel if he was aware of plaintiffs who had recently filed FOIA cases as related to some of the other Clinton-email-related cases. Counsel told the Court he was not aware of any such cases. Since that time, counsel has become aware of *Freedom Watch v. U.S. Dep't of State*, Civ. No. 15-1264 (RJL) (D.D.C. filed Aug. 6, 2015), in which the plaintiff asserted that the new case was related to two earlier cases on the grounds that they “involve[] common issues of fact.” See Notice of Designation of Related Civil Cases, *Freedom Watch* (ECF No. 1-2) (asserting that the newly filed case is related to *Associated Press v. U.S. Dep't of State*, Civ. No. 15-345 (RJL), and

⁴ While State anticipates the documents will be stored in an electronically searchable format by that date, there is still significant effort required to search for potentially responsive documents and to then review them for responsiveness and exemptions before non-exempt portions of responsive documents recently provided by Ms. Abedin, Ms. Mills, and Mr. Reines can begin to be produced.

Freedom Watch v. Nat'l Security Agency, et al.,⁵ Civ. No. 14-1431 (RJL)). State has filed its objection to that related case designation. Defendant's Objection to Related Case Designation, *Freedom Watch* (ECF No. 6) (D.D.C. Sep. 18, 2015).

Date: September 18, 2015

Respectfully submitted,

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General

MARCIA BERMAN
Assistant Branch Director

/s/ Robert J. Prince

ROBERT J. PRINCE (D.C. Bar No. 975545)
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Ave., N.W.
Washington, DC 20530
Tel: (202) 305-3654
robert.prince@usdoj.gov

Counsel for Defendant

⁵ State is not a defendant in this case.

Prince, Robert (CIV)

From: Ryan James <rsjameslaw@gmail.com>
Sent: Thursday, September 17, 2015 5:15 PM
To: Prince, Robert (CIV)
Cc: Jeffrey Light
Subject: RE: 15-cv-123 Search Priorities

Hi Rob,

Yes, please do apply that exclusion.

Ryan

On Sep 17, 2015 4:11 PM, "Prince, Robert (CIV)" <Robert.Prince@usdoj.gov> wrote:

Ryan,

Thank you for the list of priorities. I wanted to clarify one thing. In the first email you sent concerning the scope of search, you instructed State to "interpret the FOIA request to EXCLUDE . . . [p]ublic media articles, public news videos, public news images, or summaries of any of the preceding that may have been circulated within DOS." I wanted to confirm that State should abide by that instruction as it conducts searches for records responsive to part (2) of the Narrowed FOIA Request. At least with respect to the documents recently provided by Mr. Reines, this could make the search process much more efficient.

I will let you know if we have any additional questions.

Best,

Rob

From: Ryan James [mailto:rsjameslaw@gmail.com]
Sent: Thursday, September 17, 2015 1:03 AM
To: Prince, Robert (CIV)
Cc: Jeffrey Light
Subject: 15-cv-123 Search Priorities

Hi Rob,

Pursuant to the Court's Minute Order of Sept. 11, attached please find Plaintiff's search priorities for records responsive to part (2) of the Narrowed FOIA Request.

Please let me know if any aspect of Plaintiff's priorities is unclear. Please note that the attached list was based on our current understanding of how records are categorized and maintained at State. Mr. Leopold's list reflects State's indication that additional time is necessary for the non-state.gov emails to be processed, and to allow for an overall efficient search and review process.

Best,

Ryan