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# Transcript of John Francis Hackett

**Date:** May 31, 2019

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

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Transcript of John Francis Hackett  
Conducted on May 31, 2019

<p>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 : 14-01242(RCL) 8 STATE, : 9 Defendant. : 10 -----x 11 12 Videotaped Deposition of JOHN FRANCIS HACKETT 13 Washington, DC 14 Friday, May 31, 2019 15 10:00 a.m. 16 17 18 19 20 Job No.: 238864 21 Pages: 1 - 212 22 Reported By: Debra Ann Whitehead</p>	<p>1 A P P E A R A N C E S 2 ON BEHALF OF PLAINTIFF: 3 RAMONA COTCA, ESQUIRE 4 LAUREN M. BURKE, ESQUIRE 5 JUDICIAL WATCH 6 425 Third Street, Southwest 7 Suite 800 8 Washington, DC 20024 9 (202) 646-5199 10 11 ON BEHALF OF DEFENDANT: 12 JOSHUA E. GARDNER, ESQUIRE 13 STEPHEN PEZZI, ESQUIRE 14 ROBERT PRINCE, ESQUIRE 15 U.S. DEPARTMENT OF JUSTICE 16 FEDERAL PROGRAMS BRANCH 17 1100 L Street, Northwest 18 Washington, DC 20005 19 (202) 305-7583 20 21 22</p>
<p>1 Videotaped Deposition of JOHN FRANCIS 2 HACKETT, held at the offices of: 3 4 PLANET DEPOS 5 1100 Connecticut Avenue, Northwest 6 Suite 950 7 Washington, DC 20036 8 (888) 433-3767 9 10 11 12 13 Pursuant to notice, before Debra Ann Whitehead, 14 Notary Public in and for the District of Columbia. 15 16 17 18 19 20 21 22</p>	<p>1 A P P E A R A N C E S C O N T I N U E D 2 ON BEHALF OF DEFENDANT: 3 MICHAEL LIEBERMAN, ESQUIRE 4 U.S. DEPARTMENT OF STATE 5 2201 C Street, Northwest 6 Washington, DC 20520 7 (202) 647-8042 8 9 ALSO PRESENT: 10 JEREMY DINEEN, Video Specialist 11 12 13 14 15 16 17 18 19 20 21 22</p>

Transcript of John Francis Hackett  
 Conducted on May 31, 2019

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6	Exhibit 6 Letter from Ms. Weismann, to 83	6	District Court for the District of Columbia, Civil
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8	and Services, 12/6/12	8	Today's date is May 31, 2019. The time
9	Exhibit 7 Letter from Ms. Walter, to 90	9	on the video monitor is approximately 10:00 a.m.
10	Ms. Weismann, 5/10/13	10	The videographer today is Jeremy Dineen,
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12	Grafeld, to Mr. Stein, et al.,	12	is taking place at the offices of Planet Depos,
13	9/25/14	13	1100 Connecticut Avenue, Northwest, Suite 950, in
14	Exhibit 9 E-mail string ending from 102	14	Washington, DC.
15	Mr. Hackett, to Mr. Stein,	15	Would counsel please voice identify
16	12/5/14	16	themselves and state whom they represent.
17	Exhibit 10 Acknowledgement of Receipt 104	17	MS. COTCA: Ramona Cotca, for Judicial
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20	Collection	20	Watch.
21		21	MR. GARDNER: Josh Gardner, with the
22		22	United States Department of Justice.

<p style="text-align: right;">9</p> <p>1 And the witness reserves the right to 2 read and sign. 3 MR. PRINCE: Robert Prince, Department of 4 Justice. 5 MR. PEZZI: Stephen Pezzi, with the 6 Department of Justice. 7 MR. LIEBERMAN: Michael Lieberman, from 8 the Department of State. 9 VIDEO SPECIALIST: The court reporter 10 today is Debbie Whitehead, representing Planet 11 Depos. 12 Would the reporter please swear in the 13 witness. 14 JOHN FRANCIS HACKETT, 15 having been duly sworn, testified as follows: 16 EXAMINATION BY COUNSEL FOR PLAINTIFF 17 BY MS. COTCA: 18 Q Good morning, Mr. Hackett. Thank you -- 19 <b>A Good morning.</b> 20 Q Thank you for being here. 21 Would you please just identify your full 22 name, for the record.</p>	<p style="text-align: right;">11</p> <p>1 answering the questions, it is very important that 2 if you don't understand my question or if you need 3 clarification, that you let me know that you need 4 that; otherwise, I will assume that you have 5 understood the question. 6 Is that fair? 7 <b>A That's fair.</b> 8 Q Okay. Also, because everything is being 9 transcribed, just all of our responses -- your 10 responses should be verbal. The nods of the head 11 don't transcribe onto the record. 12 <b>A Okay.</b> 13 Q Okay? 14 If you need a break at any point, just 15 let me know, and I'm sure we'll be able to 16 accommodate you. Okay? 17 <b>A Okay.</b> 18 Q All right. Thank you. 19 This -- so this lawsuit that we have 20 asked you to -- for your deposition is a FOIA 21 lawsuit against the State Department for a FOIA 22 request asking for copies of updates and talking</p>
<p style="text-align: right;">10</p> <p>1 <b>A John Francis Hackett.</b> 2 Q Okay. Mr. Hackett, have you been deposed 3 before? 4 <b>A No.</b> 5 Q Okay. Let's just go over a few ground 6 rules for the deposition. 7 As you can see, we have a court reporter 8 here, so she is transcribing everything that's 9 being said. So that being said, I would just ask, 10 even though you may anticipate the question that 11 I'm asking, that you let me finish asking my 12 question so we don't speak over each other, so 13 that way the court reporter is able to get on the 14 record everything that's being said today. 15 With that in mind also, you may hear your 16 attorney objecting today. I would ask that you 17 let your attorney finish his objection, and then 18 answer. If he instructs you not to answer, then 19 don't answer the question. But unless he 20 instructs you not to answer, then you must still 21 answer the question that's being asked. 22 One other thing is, when you are</p>	<p style="text-align: right;">12</p> <p>1 points given to Ambassador Rice by the White House 2 or any federal agency concerning or related to the 3 September 11, 2012, attacks on the U.S. Consulate 4 in Benghazi, and also for any records or 5 communication about those talking points. 6 Are you familiar with this litigation? 7 <b>A Yes.</b> 8 Q Okay. And tell me when you first became 9 involved in this lawsuit. 10 <b>A I guess approximately 2014.</b> 11 Q 2014? Okay. All right. 12 So we're going to cover your involvement 13 in the lawsuit, and then also with respect to what 14 you knew about Secretary Clinton's e-mail use and 15 when you knew that. Okay? 16 One quick followup I wanted to ask you 17 earlier. Did you review any documents in 18 preparation for your deposition -- deposition 19 today? 20 <b>A Yes.</b> 21 Q Okay. What were the documents that you 22 reviewed?</p>

13

1 A I reviewed the judge's Order.  
2 Q Okay.  
3 A I reviewed my 302 that was released by  
4 the FBI. I reviewed, I believe, one search  
5 Declaration involved this case.  
6 Q Is this your Declaration that you signed?  
7 A Yes.  
8 Q Okay.  
9 A And I'm trying to remember some of the  
10 other documents. They were all publicly available  
11 documents that had been released.  
12 Q Okay. Were they e-mails? If you can  
13 recall.  
14 A I think one e-mail was shown to me, but I  
15 can't remember what that was.  
16 Q Okay. Quick background.  
17 Are you still working at the State  
18 Department?  
19 A No.  
20 Q Okay. And when did you leave the State  
21 Department?  
22 A I left the State Department in March of

14

1 2016.  
2 Q Okay. When did you begin -- I just want  
3 to go over your employment history generally  
4 while -- I am mostly interested while you were at  
5 the State Department.  
6 When did you begin working at the State  
7 Department?  
8 A I began working at the State Department  
9 in April of 2013.  
10 Q And what was your position when you  
11 started there?  
12 A My position was Deputy Director for  
13 Information Programs and Services.  
14 Q Is that what is short for IPS?  
15 A Yes.  
16 Q Okay. So if I refer to IPS, then we are  
17 talking about the same thing.  
18 Is that right?  
19 A Yes.  
20 Q Okay. Before April of 2013, where did  
21 you work?  
22 A I worked for, excuse me, the Director of

15

1 National Intelligence.  
2 Q And what did you do for DNI?  
3 A I was Director of a similar office,  
4 Information Management Office, for the Office of  
5 the Director of National Intelligence.  
6 Q Okay. How long were you there?  
7 A I was there from April 2006 until April  
8 2013.  
9 Q Okay. So when you came to the State  
10 Department as Deputy Director for IPS, what were  
11 your general duties and responsibilities?  
12 A My general duties were to support the  
13 Director and step in for the Director when she was  
14 away; and generally to kind of do special projects  
15 relating to records management or declassification  
16 or sometimes for Freedom of Information Act.  
17 But there were no -- I would say no real  
18 defined duties, other than stepping in and  
19 supporting the Director.  
20 I was -- I worked on the Executive Order  
21 13526 program, mostly classification policy and  
22 declassification policy; and -- and also worked on

16

1 an acting basis handling that office and handling  
2 prepublication review in that office.  
3 Q Okay. I should have asked this question  
4 before.  
5 What does IPS do? What does -- if you  
6 can describe the office.  
7 A The office, as you know, handles the  
8 Freedom of Information Act program for the  
9 Department of State.  
10 Q Okay.  
11 A Which is -- was then, and I believe  
12 today, is quite substantial.  
13 It handles the Records Management program  
14 for the Department of State, the policy relating  
15 to that, as well as the actual retirement of  
16 records for the department.  
17 The office also handles the  
18 declassification of records. Records that reach a  
19 certain time limit under Executive Order 13526 can  
20 be declassified, and then they're retired and sent  
21 to the National Archives.  
22 There's classification policy. They also

17

1 **handle the implementation of the Privacy Act**  
2 **through the department.**  
3 **That's about it. I mean, that's --**  
4 **that's plenty.**  
5 Q I'm sure it is.  
6 What about with respect to requests from  
7 congressional committees for document requests; is  
8 that handled by IPS or a different office?  
9 A **Yes.**  
10 Q By IPS?  
11 A **Yes.**  
12 Q Okay. And then what about internal  
13 investigations, such as the Accountability  
14 Board -- the ARB, the Accountability Review Board;  
15 after the attacks in Benghazi, were requests for  
16 documents by the board handled in any way by the  
17 IPS office?  
18 A **I -- well, I don't recall. I mean, IPS**  
19 **does not handle, you know, Accountability Review**  
20 **Board. Or they didn't in that case, as far as I**  
21 **know.**  
22 Q Okay.

18

1 A **Certainly -- well, what I remember is**  
2 **that they may have assisted the board in gathering**  
3 **some documents. But I don't think they were part**  
4 **of the board, if that's -- if that's what you were**  
5 **asking.**  
6 Q Okay. I think I got the gist of it.  
7 A **Yeah.**  
8 Q Yeah. Thank you.  
9 Now, when you came on to -- in your  
10 Deputy Director role at IPS, you said that part of  
11 your responsibility was to support the Director.  
12 Who was the Director at the time?  
13 A **Sheryl Walter.**  
14 Q Okay. And how long did you serve in your  
15 role as Deputy Director?  
16 A **Approximately one year.**  
17 Q Okay. And then what was your position  
18 after?  
19 A **I became Acting Director.**  
20 Q Okay. So that would have been in and  
21 around April of 2014?  
22 A **Correct. It -- it may have been May of**

19

1 **2014 --**  
2 Q Okay.  
3 A **-- that I became...**  
4 Q Spring of 2014, it's fair to say?  
5 A **Correct.**  
6 Q Okay. All right. And then when you  
7 became the Director of IPS, how have your  
8 responsibilities, how had they changed?  
9 A **Well, the responsibilities changed; that**  
10 **you were now the head of this program,**  
11 **including --**  
12 Q Let me ask it this way. How about your  
13 day-to-day activities; how had that changed from  
14 being Deputy Director to Director of IPS?  
15 A **Again, I mean, I think the**  
16 **responsibilities for a program of almost 500**  
17 **people, and including its budget. And I also**  
18 **became the Declarant in FOIA cases for cases that**  
19 **were in litigation.**  
20 I -- I was involved in many other  
21 inner-agency meetings relating to classification,  
22 declassification.

20

1 **It was just you were, you know,**  
2 **responsible for the -- the whole program now.**  
3 Q Okay.  
4 A **What I can remember of it.**  
5 Q Sure. And I'm only asking what you can  
6 remember --  
7 A **Yeah.**  
8 Q -- as you sit here today.  
9 You said that you became the Declarant in  
10 FOIA cases in litigation.  
11 Can you elaborate on that?  
12 A **Yes. If there was a search, sometimes**  
13 **the head of the office would be the Declarant.**  
14 **And I don't know whether it's a certification**  
15 **or -- you're certainly swearing to the court about**  
16 **that a -- a search was made relating to a**  
17 **particular FOIA case --**  
18 Q Okay.  
19 A **-- based on the information that's**  
20 **provided to you.**  
21 Q So is that something that generally fell  
22 within the scope of the Director's role?

<p style="text-align: right;">21</p> <p>1 <b>A Yes; but I would say it wasn't entirely</b> 2 <b>exclusive to the Director.</b> 3 Q Okay. It was not entirely exclusive to 4 the Director; is that what you said? 5 <b>A Correct.</b> 6 Q Can you walk us through general process 7 of how a FOIA request would be handled by IPS at 8 the time that you were there? 9 <b>A I'm -- I mean, I have vague recollections</b> 10 <b>about -- I mean, I was not in the weeds when FOIA</b> 11 <b>requests were coming in. When I was there, they</b> 12 <b>got upwards, you know, 20 to 30 thousand FOIA</b> 13 <b>requests, I believe.</b> 14 <b>My recollection is, a FOIA request came</b> 15 <b>in either by mail or by e-mail or by fax, and went</b> 16 <b>to some sort of in-processing branch that would</b> 17 <b>look at the FOIA request to see if it met the</b> 18 <b>standards of an actual FOIA request. Or see if it</b> 19 <b>had been sent to the right place.</b> 20 <b>And then a response would be -- the FOIA</b> 21 <b>request would be accepted, and response would be</b> 22 <b>sent to the requestor.</b></p>	<p style="text-align: right;">23</p> <p>1 <b>on subject matter experts, many of them former</b> 2 <b>Foreign Service Officers, to help them task parts</b> 3 <b>of the department where these requests should go.</b> 4 Q And these subject matter experts, what 5 office would they be in? 6 <b>A IPS, also.</b> 7 Q Okay. Okay. All of this is handled 8 within IPS before it's tasked out? 9 <b>A Correct.</b> 10 Q Okay. Now, would requests for records 11 that came from congressional committees, would 12 those be handled any differently? 13 <b>A I don't understand your question.</b> 14 Q Is there a different process in 15 processing a FOIA request from a congressional 16 investigation request for documents? 17 MR. GARDNER: I'm not sure he was done 18 laying out the process for the FOIA requests. 19 So do you want him to finish his response 20 first, and then ask that question? 21 MS. COTCA: Yes. Thank you. 22 MR. GARDNER: You're welcome.</p>
<p style="text-align: right;">22</p> <p>1 <b>Then there was a whole tasking office</b> 2 <b>that would task out the -- the FOIA requests. It</b> 3 <b>would be sent to a FOIA analyst, who would task it</b> 4 <b>out to where the records relating to the requests</b> 5 <b>most likely would reside.</b> 6 Q Okay. And the tasking office, is that 7 within IPS? 8 <b>A Yes.</b> 9 Q Okay. And the FOIA analyst that would 10 then distribute the request to particular offices 11 that would be expected to have relevant 12 information, that FOIA analyst, was that -- would 13 they have been within IPS? 14 <b>A Yes.</b> 15 Q Okay. You hesitated a little bit. Is 16 there a reason? 17 <b>A Well, my recollection of it is a little</b> 18 <b>fuzzy.</b> 19 Q Okay. 20 <b>A Also, I would say at times there were</b> 21 <b>analysts, plural. And there was a FOIA analyst</b> 22 <b>who was a civil servant. And they relied heavily</b></p>	<p style="text-align: right;">24</p> <p>1 <b>A Well, I'm -- are -- if you're talking</b> 2 <b>about a FOIA -- if you're talking about</b> 3 <b>congressional document production --</b> 4 MR. GARDNER: So I think she has 5 withdrawn that question for now. 6 THE WITNESS: Okay. 7 MR. GARDNER: To allow you to finish your 8 answer about -- 9 THE WITNESS: Okay. 10 MR. GARDNER: -- the process for FOIA 11 requests. 12 <b>A Okay. So in the tasking, requests are</b> 13 <b>tasked out to -- after the civil servant, or the</b> 14 <b>FOIA analyst, consults with this senior former</b> 15 <b>employee, tasks it out to a bureau, or functional</b> 16 <b>or area bureau of the department. And records</b> 17 <b>come back that might be responsive to the request,</b> 18 <b>then they review the records.</b> 19 <b>And I'm -- I'm kind of -- what I -- this</b> 20 <b>is what I remember of it. And, you know, they</b> 21 <b>review them. And redactions may have to be</b> 22 <b>applied based on a...</b></p>

<p style="text-align: right;">25</p> <p>1       <b>And -- and I'm sure I'm skipping some</b> 2 <b>process there. There may be some back and forth.</b> 3 <b>The analyst may not think, you know, a lot of</b> 4 <b>records came back.</b> 5       <b>They may task the Records Center where</b> 6 <b>their physical records are stored to get, you</b> 7 <b>know, records from there, pull those back and they</b> 8 <b>search themselves.</b> 9       <b>So there's a lot -- there should be a lot</b> 10 <b>of back and forth going on in that process.</b> 11       Q   Okay. When you said, "they," you are 12 referring to the individuals, the taskers within 13 IPS? 14       A   <b>Yes.</b> 15       Q   Okay. Thank you. Okay. And what about 16 once a FOIA request goes into litigation? 17       A   <b>My recollection --</b> 18       Q   Sure. Absolutely. 19       A   <b>-- is that that process kind of stops,</b> 20 <b>and it goes to a different -- we work with the</b> 21 <b>attorneys in the department. And I -- I should</b> 22 <b>stop saying, "we," because I don't work there</b></p>	<p style="text-align: right;">27</p> <p>1 you're referring to are in the IPS Litigation 2 Branch at this point? 3       <b>A   Correct.</b> 4       Q   Okay. Now, I'll go back to my previous 5 question about any difference in processing a -- a 6 FOIA request and what you just described, from a 7 request for documents from -- because of a 8 congressional investigation. 9       MR. GARDNER: Objection. Form. 10       Q   You can still answer. 11       <b>A   Yes, there -- there is a difference. And</b> 12 <b>they wouldn't submit a FOIA request.</b> 13       Q   Right. 14       <b>A   They may request or they may issue a</b> 15 <b>subpoena. And there is a different -- what I</b> 16 <b>remember, a different process. There is a</b> 17 <b>different office that handles congressional</b> 18 <b>document production.</b> 19       <b>When I arrived, there wasn't a separate</b> 20 <b>office. But when I was there, a separate office</b> 21 <b>was created to handle congressional document</b> 22 <b>production.</b></p>
<p style="text-align: right;">26</p> <p>1 <b>anymore.</b> 2       <b>They work with the attorneys, Office of</b> 3 <b>Legal Advisor. And -- and it goes -- my</b> 4 <b>recollection is, it's handled by a separate branch</b> 5 <b>within IPS who handles all -- supports all the</b> 6 <b>litigation for IPS.</b> 7       Q   What's that branch called, if you recall? 8       A   <b>The Litigation Branch.</b> 9       Q   Okay. 10       A   <b>I think. If I recall.</b> 11       <b>We used to call it the Litigation Branch.</b> 12 <b>But I think they had -- it's a bigger name, but I</b> 13 <b>can't remember it.</b> 14       <b>And then my recollection is that they</b> 15 <b>start the search all over again. They will</b> 16 <b>collect the documents that have already been</b> 17 <b>collected, if they've already been collected. But</b> 18 <b>they -- they would -- they would start --</b> 19 <b>depending on the litigation, they would start the</b> 20 <b>search all over again, just to make absolutely</b> 21 <b>sure that all of the records have been collected.</b> 22       Q   Okay. And, again, the "they" is --</p>	<p style="text-align: right;">28</p> <p>1       Q   What's the name of the office that was 2 created? 3       <b>A   I don't recall.</b> 4       Q   Okay. Okay. 5       MR. GARDNER: Were you done answering the 6 question about the differences? 7       <b>A   I'm just trying to -- I don't recall what</b> 8 <b>the different -- if there are any different</b> 9 <b>processes in the tasking process. I don't recall.</b> 10       Q   Okay. Were you involved in any -- in the 11 responding process or with respect to the Benghazi 12 Select Committee's request for documents from the 13 State Department? 14       <b>A   Initially, no. I mean, that preceded my</b> 15 <b>arrival in the department.</b> 16       Q   The Benghazi Select Committee? 17       <b>A   Oh, the Benghazi Select -- see, I'm</b> 18 <b>getting the --</b> 19       Q   Sorry. No. The Benghazi Select 20 Committee. 21       <b>A   Can you give me more information about</b> 22 <b>when that committee sat?</b></p>



29

1 Q How about in 2014, when you would have  
2 been the Director of IPS?  
3 A **My recollection, my only involvement**  
4 **would have been making sure there were enough**  
5 **resources available to produce documents.**  
6 Q And by "resources," what do you mean?  
7 A **I mean staffing, people working overtime.**  
8 **Are you -- are we going to work this weekend, you**  
9 **know, those kinds of issues. Are we going to work**  
10 **over a -- overtime, are we going to work a holiday**  
11 **weekend.**  
12 Q Okay. But you don't have specific  
13 recollection as to the timing of when?  
14 A **I -- I don't -- I don't recall.**  
15 Q That's fine. From the time that you  
16 started at the State Department in 2013, was  
17 there -- did there come a time when FOIA requests  
18 that related to Secretary Clinton's e-mails became  
19 an issue?  
20 MR. GARDNER: Objection. Form.  
21 A **Can you elaborate on what you mean by**  
22 **"issue"?**

30

1 Q A concern or a focus by your department.  
2 A **Yes.**  
3 Q Okay. When was that?  
4 A **My concerns started in June of 2013.**  
5 Q Okay. And can you tell us what those  
6 concerns were?  
7 And my followup will be, and what  
8 prompted you to have those concerns? But let's  
9 start with what the concerns were.  
10 A **My concerns were that IPS may have**  
11 **been -- well, it's related to what prompted --**  
12 Q Okay.  
13 A **-- the concerns.**  
14 Q Then let's start with what prompted.  
15 A **So what prompted my concerns was a**  
16 **photograph in June of 2013 on the WTOP website of**  
17 **the former Secretary sitting on a plane with a**  
18 **BlackBerry.**  
19 **And that got me thinking that, well,**  
20 **what -- what was that BlackBerry? Was it a**  
21 **government BlackBerry? And if so, where were the**  
22 **e-mails relating to that BlackBerry?**

31

1 Q Did you raise your concerns to anybody at  
2 that point, in June of 2013?  
3 A **Yes.**  
4 Q To whom?  
5 A **Sheryl Walter; and also the Deputy**  
6 **Assistant Secretary, Margaret Grafeld, who was**  
7 **my -- one of my supervisors.**  
8 Q When you first -- was that in 2013, the  
9 time frame when you first raised it, your concern?  
10 A **Yes.**  
11 Q Okay. And what -- can you tell us what  
12 those discussions were?  
13 A **Some of those discussions were with the**  
14 **department's attorneys.**  
15 Q I'm asking with respect to Ms. Walter and  
16 Ms. Grafeld.  
17 MR. GARDNER: But to the extent there  
18 were not also attorneys present where you were  
19 discussing legal advice, you can obviously answer  
20 the question.  
21 THE WITNESS: Okay.  
22 MR. GARDNER: If there were attorneys

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1 there and legal advice were discussed, I would  
2 instruct you not to answer.  
3 THE WITNESS: Okay.  
4 A **So with Sheryl Walter, I went to Sheryl**  
5 **after seeing that photograph and suggested that we**  
6 **had to be careful about what sort of responses we**  
7 **made relating to Hillary Clinton's e-mails, when**  
8 **it -- if there was a No Record Located response**  
9 **that was being given out.**  
10 **In fact, I advised Sheryl that we should**  
11 **stop giving No Record Located responses until we**  
12 **come to -- kind of come, you know -- find out what**  
13 **that BlackBerry meant, come to ground about what**  
14 **was known about the former Secretary's e-mailing**  
15 **habits.**  
16 Q And how did Ms. Walter respond?  
17 A **My recollection is, she agreed with me.**  
18 Q Okay. And what happened next, I guess,  
19 if you...  
20 A **With Sheryl's permission, I believe I**  
21 **thought I had issued a -- an e-mail or a written**  
22 **instruction, or it may have just been a verbal**

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1 instruction, to our FOIA branch that I didn't want  
2 any, you know, No Record Located responses going  
3 out without them talking to us first.  
4 Q And that's to you and Ms. Walter?  
5 A Correct.  
6 Q Okay.  
7 A Other -- excuse me.  
8 Q I'm sorry. You said that you e-mailed?  
9 MR. GARDNER: Sorry. Objection. Form.  
10 Q You said you sent -- you sent out an  
11 alert via e-mail. Is that right?  
12 MR. GARDNER: Objection. Form.  
13 A My recollection was that I did. But it  
14 has been searched for in the past and nobody can  
15 find it, I believe.  
16 Q Okay. And who did you -- based on your  
17 recollection, who did you send the e-mail to?  
18 A My recollection was that I sent it to the  
19 head of our FOIA branch. And I have forgotten --  
20 Pat Scholl, I believe was his -- is his name.  
21 Q Just to him?  
22 A Yes. And he was going to redistribute it

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1 to all of the analysts and through his -- his  
2 organization.  
3 Q So what happened after -- after that  
4 e-mail was sent out?  
5 A The other thing that we did, or I did at  
6 that time, was, we wanted to find out what this  
7 BlackBerry meant.  
8 So we tasked -- my recollection is, we  
9 verbally tasked Tasha Thian, the department's  
10 Records Manager at that time, to look into the  
11 BlackBerry.  
12 And I believe Tasha contacted Clarence  
13 Finney in the Secretary's office to ask him what  
14 he knew about the former Secretary's e-mailing  
15 habits.  
16 Q And what did she find out?  
17 A I don't recall exactly what she found  
18 out, but she didn't find out much.  
19 Tasha also contacted the part of the  
20 State Department that's part of the intelligence  
21 community, and Intelligence and Research Bureau,  
22 to ask to see if there were any classified e-mails

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1 on -- in the classified systems that the Secretary  
2 might have produced. And I do recall that I think  
3 Tasha came back with the answer that they did not  
4 have any.  
5 There was a lot of confusion about  
6 exactly what that BlackBerry, you know, meant at  
7 that time.  
8 Q Let me just go back to the BlackBerry  
9 picture.  
10 Which picture was this that you -- that  
11 sparked your interest?  
12 A It was a photograph of the former  
13 Secretary sitting on an airplane; and I believe  
14 it -- you know, it's a big military-type airplane,  
15 in a row of seats, with a BlackBerry in her hand.  
16 Q And which paper was this?  
17 MR. GARDNER: Objection. Form.  
18 Q Or where did you see the photograph?  
19 Sorry.  
20 A I believe I saw the photograph on the  
21 WTOP's website.  
22 Q And this was after Secretary Clinton left

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1 the State Department?  
2 A Yes. It was in June of 2013.  
3 Q Were there any discussions at that time  
4 with Ms. Walter with respect to reaching out to  
5 Secretary Clinton about asking if she had e-mails,  
6 work-related e-mails, on her BlackBerry?  
7 A I don't recall any, no.  
8 Q Okay. And I believe I -- I don't know if  
9 I got the last name correct. But you said that  
10 you tasked it out to Tasha?  
11 A Thian.  
12 Q Thian. And she spoke with Mr. Finney.  
13 Is that Clarence Finney?  
14 A Correct.  
15 Q Okay. Do you know of anybody else that  
16 she spoke with to try to understand what this  
17 BlackBerry meant and more information about  
18 Secretary Clinton's e-mails, e-mail use?  
19 A I don't -- I don't recall.  
20 Q Did you ever speak with Mr. Finney about  
21 this issue?  
22 A Not in 2013, no.

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1 Q Okay. When did you speak with Mr. Finney  
2 about this issue?  
3 A **I don't think I spent -- spoke to  
4 Clarence about this until 2014.**  
5 Q Can you narrow the time frame in 2014?  
6 A **I would say the summer of 2014. Late  
7 summer, maybe fall of 2014.**  
8 Q Okay. What sparked that conversation?  
9 A **And I want to make sure my timeline is  
10 correct.  
11 I believe that is when -- the September  
12 2014, I'm trying to think here, was when some --  
13 well, some documents were going to be released to  
14 Capitol Hill, to one of the committees, and were  
15 going to include possibly -- I know they were  
16 going to include some call sheets with foreign  
17 leaders. But there were some, I believe, other --  
18 there might have been some e-mails that were going  
19 to be released --**  
20 Q And are --  
21 A -- to the --  
22 Q I'm sorry. I cut you off. I'm going to

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1 let you finish.  
2 A **I -- I'm not sure, but I -- but I believe  
3 there was going to be some e-mails released to the  
4 Hill during that time period.**  
5 Q Okay. And whose -- is that Secretary  
6 Clinton's e-mails?  
7 A **Correct.**  
8 Q So in either August or September time  
9 frame of 2014, you were aware that Secretary  
10 Clinton's e-mails would be released, or some of  
11 them would be released, to the -- is that to the  
12 Benghazi Select Committee?  
13 A **I don't recall.**  
14 Q Okay. And if you can just provide with  
15 respect to what was discussed between you and Mr.  
16 Finney at that time?  
17 A **I believe Mr. Finney -- both of us were  
18 being asked to go to a meeting with the  
19 department's Public Affairs Officers to talk about  
20 Hillary Clinton's e-mails.  
21 And I said, I'm not going, because I  
22 don't know anything about the former Secretary's**

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1 **e-mails. And I believe Clarence said the same  
2 thing to me, that he didn't know about her  
3 e-mails. That's my recollection.**  
4 Q Okay. Let me -- just to pinpoint the  
5 time frame here.  
6 MS. COTCA: I am going to show you this.  
7 Can you mark this as Exhibit 1.  
8 (Hackett Deposition Exhibit 1 marked for  
9 identification.)  
10 Q Mr. Finney, you're looking at what's been  
11 marked as Exhibit 1. If you want to take some  
12 time to look at it and see if you recognize this  
13 document.  
14 A **I mean, if your question is do I  
15 recognize this document, no.**  
16 Q Have you ever seen this document?  
17 A **I don't recall even seeing this document.  
18 One reason is, we don't -- I mean, this  
19 was signed out by the Legislative Affairs office,  
20 and they handled all of the congressional  
21 production.**  
22 Q Okay. That's fine, if you don't -- if

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1 you haven't seen it.  
2 I will just represent to you that this  
3 was produced in another FOIA lawsuit by Judicial  
4 Watch against the State Department in Case Number  
5 15-692.  
6 I just wanted to refer you to Page 3 at  
7 the top.  
8 A **Uh-huh.**  
9 Q Where it says, August 11, 2014.  
10 And in there it's a reference being made  
11 to production to the Benghazi Select Committee  
12 that included, among other things, e-mails,  
13 including former Secretary Clinton's, and in  
14 quotes, `hdr22@clintonemail.com`, end quotes,  
15 address.  
16 Do you see that?  
17 A **Yes.**  
18 Q Okay. Is this the production that you  
19 were referring to just a few moments ago?  
20 MR. GARDNER: Objection. Form.  
21 Actually, objection. Foundation.  
22 A **I can't tie it to a specific production.**

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**1 I just know that in that time frame some documents**  
**2 relating specifically to Hillary Clinton were**  
**3 released to the Hill.**  
4 Q To the Hill? That's my --  
**5 A That's my memory of it.**  
6 Q Okay. Do you remember as you sit here  
7 today -- well, I'll strike that. Never mind.  
**8 A Okay.**  
9 Q Thank you. But that is an August 11,  
10 2014. Around -- is it fair that it's around the  
11 same time frame that you recall her e-mails, some  
12 of her e-mails, being sent to the Hill?  
**13 A Yes.**  
14 Q Okay. Thank you.  
15 So who did go -- earlier you were talking  
16 about being asked to go to speak about Secretary  
17 Clinton's e-mails, that you refused to do because  
18 you didn't know anything about. And you said Mr.  
19 Finney also refused to do.  
20 Is that right?  
**21 A I said that, I refuse to go.**  
22 Q Okay.

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**1 A I -- I don't know what Mr. Finney ended**  
**2 up doing.**  
**3 I only recall Clarence wanting me to go**  
**4 to support him. But he didn't know anything**  
**5 about, you know, her e-mail setup.**  
6 Q Okay. Can you tell me more of where you  
7 were supposed to go or where you were invited to  
8 go to speak about her e-mails?  
**9 A My recollection is that Public Affairs**  
**10 asked us to attend kind of a background briefing**  
**11 with them to discuss Hillary Clinton's e-mails.**  
12 Q Okay. Do you know who in Public Affairs  
13 asked you to do that?  
**14 A I don't recall.**  
15 Q Do you recall any of the individuals  
16 involved in that request?  
**17 A I have forgotten -- you know, I have**  
**18 forgotten their names.**  
19 Q Okay. And then I want to go back now to  
20 your discussions with Ms. Walter.  
21 You also said you had discussions with  
22 Ms. Garfeld. Is that correct?

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**1 A Yes.**  
2 Q Okay. And was -- can you tell me more  
3 about those discussions?  
4 MR. GARDNER: Objection. Form.  
**5 A Specific --**  
6 Q Specifically about your June 2013 concern  
7 after you saw Secretary Clinton's picture with  
8 holding a BlackBerry.  
**9 A My discussion with Margaret Grafeld might**  
**10 be -- might have involved department lawyers.**  
11 Q Okay.  
**12 A So...**  
13 MR. GARDNER: So before you disclose  
14 that, we can take a break. Obviously we can  
15 consult and see if that's information we can  
16 provide or whether it's privileged.  
17 MS. COTCA: Okay. We can do that.  
18 Do you want us to step out?  
19 MR. GARDNER: Why don't we just continue  
20 going, and then we can circle back. Unless that's  
21 going to disrupt you?  
22 MS. COTCA: I'd rather stop now.

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1 MR. GARDNER: Do you want --  
2 MS. COTCA: Yes.  
3 MR. GARDNER: -- to take a morning break?  
4 MS. COTCA: Yes.  
5 MR. GARDNER: Okay. We can do that.  
6 VIDEO SPECIALIST: We are going off the  
7 record at 10:49.  
8 (A recess was taken.)  
9 VIDEO SPECIALIST: We are back on the  
10 record at 11:05.  
11 BY MS. COTCA:  
12 Q Mr. Hackett, you have had a chance to  
13 speak with your lawyers. Before the break I asked  
14 you about discussions that you had with Ms., is  
15 it, Garfeld?  
**16 A Grafeld.**  
17 Q Grafeld. I'm sorry. Thank you.  
18 Are you able to answer the question  
19 without divulging attorney-client privilege?  
20 MR. GARDNER: We would instruct Mr.  
21 Hackett not to answer the question. That question  
22 does call for the disclosure of information

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1 subject to the attorney-client privilege, as well  
2 as the work product doctrine.  
3 MS. COTCA: All right.  
4 BY MS. COTCA:  
5 Q When -- when did you have the discussion  
6 with Ms. Grafeld?  
7 **A I believe it was some time in June of**  
8 **2013.**  
9 Q Okay. And was anybody else present?  
10 **A Yes.**  
11 Q And can you identify the individuals who  
12 were also present?  
13 **A Yes. Sheryl Walter was present. Josh --**  
14 **Josh Dorosin was present. And I believe there**  
15 **might have been one or two other department**  
16 **attorneys present.**  
17 Q Do you remember them by name?  
18 **A I believe Gene Smilansky might have been**  
19 **present.**  
20 Q Anybody else?  
21 **A I can't remember the -- the last person.**  
22 Q Okay. What was Ms. Grafeld's title or

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1 position at the time?  
2 **A Deputy Assistant Secretary for -- I**  
3 **can't -- if we were IPS, they were -- she was --**  
4 **GPS was the printing plant. And I believe we --**  
5 **GPS and IPS and the policy shop are all part of**  
6 **Ms. Grafeld's organization, which is GIS, Global**  
7 **Information Systems.**  
8 Q Okay.  
9 **A That's my recollection.**  
10 Q Thank you for that. Okay.  
11 Is that the only time you conversed with  
12 Ms. Grafeld about this topic?  
13 MR. GARDNER: Objection. Form.  
14 **A Topic?**  
15 Q Of your concern after you saw the  
16 photograph of Secretary Clinton holding a  
17 BlackBerry.  
18 **A No.**  
19 Q When -- when did you -- no, this was not  
20 the only time, or --  
21 **A No, this was not the only time.**  
22 Q Okay. When -- when else did you speak

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1 with her about it?  
2 **A I believe -- my recollection is I might**  
3 **have had other conversations during the same time**  
4 **period, as this issue evolved.**  
5 Q Okay. What were the other conversations  
6 that you had with Ms. Grafeld about this issue as  
7 it evolved?  
8 MR. GARDNER: To the extent you can  
9 answer that question without divulging privileged  
10 information, you may do so.  
11 To the extent you can't, then I would  
12 instruct you not to answer.  
13 **A So after the photograph of the former**  
14 **Secretary on the plane, you know, I talked about**  
15 **that we tasked the Records Manager out to talk to**  
16 **Mr. Finney. But there were other issues.**  
17 **Say we found out that the former --**  
18 **people remembered that the former Secretary --**  
19 **Secretary did send department-wide e-mails out**  
20 **relating to various topics, so she had some sort**  
21 **of account in the department.**  
22 **And -- and I believe Ms. Thian went to**

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1 **find out were there other e-mails in that**  
2 **department account, that government account, other**  
3 **than general announcements. And that is the topic**  
4 **that Peggy and I talked about.**  
5 **We found nothing, no additional e-mails,**  
6 **work e-mails. And Peggy and I did talk about**  
7 **that.**  
8 Q Okay. And what was that e-mail account,  
9 if you can recall?  
10 **A I -- that, I don't know.**  
11 Q Okay.  
12 **A You -- are you asking what the address**  
13 **was?**  
14 Q Yes, if you can identify the e-mail  
15 account address.  
16 **A I don't recall.**  
17 Q Okay. So going -- so still in 2013.  
18 After Ms. Thian spoke with Mr. Finney, and after  
19 you spoke with -- or you sent the e-mail to  
20 Patrick Scholl, I believe you said, and then he in  
21 turn sent an alert not to issue any more no  
22 response -- no responsive records response to FOIA

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1 requests, what happened?  
2 What did you do at that point with  
3 respect to responding to FOIA requests that were  
4 relevant to Mrs. Clinton's e-mails?  
5 MR. GARDNER: Objection. Form.  
6 Q Or let me ask it this way. How did you  
7 handle those cases, then, that were relevant to  
8 Secretary Clinton's e-mails?  
9 MR. GARDNER: Objection, form. Also  
10 objection, foundation.  
11 **A I guess my concern was about responses**  
12 **that related to No Records Located responses.**  
13 **My recollection is, we still certainly**  
14 **processed requests, or tasked out requests related**  
15 **to the Secretary's office from her tenure, because**  
16 **there would have been records there.**  
17 **I mean, my recollection is, you know, my**  
18 **concern was relating -- related to requests**  
19 **specifically asking about her, you know, e-mails,**  
20 **or might involve directly about her e-mail**  
21 **communications.**  
22 Q Okay. So focusing on specific requests

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1 involving her e-mail communications. How did  
2 your -- how did IPS treat those FOIA requests and  
3 respond to the requestor asking for communications  
4 or records relating to communications of former  
5 Secretary Clinton by e-mail?  
6 MR. GARDNER: Objection. Lack of  
7 foundation.  
8 **A I can't recall specific cases during that**  
9 **time period.**  
10 Q Did -- did you inform any requestors who  
11 submitted requests to the State Department that  
12 related to Secretary Clinton's e-mails about the  
13 fact that there was an issue with her e-mails?  
14 MR. GARDNER: Objection. Lack of  
15 foundation.  
16 **A Well, in June 2013 I don't think we -- we**  
17 **knew specifically what the issue was.**  
18 Q Well, the issue was of her -- of  
19 Secretary Clinton's e-mails. Correct?  
20 MR. GARDNER: Objection. Form.  
21 **A I don't understand your...**  
22 Q I understood your testimony to mean that

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1 you had a concern as to how the department was  
2 responding to FOIA requests that related to  
3 Secretary Clinton's e-mails after you saw the  
4 photograph of the Secretary holding a BlackBerry.  
5 Is that fair to say?  
6 **A I had a concern about a No Records**  
7 **response.**  
8 Q Okay. Why?  
9 **A My recollection is -- and I had only been**  
10 **there two months -- that someone had told me that,**  
11 **-- and I can't remember -- that she did not have**  
12 **an e-mail account, a government e-mail account.**  
13 **So there was obviously a contradiction**  
14 **here when, you know, there's that photograph. So**  
15 **we were just trying to find out what was the**  
16 **ground truth.**  
17 **So that's why I had a concern about**  
18 **issuing responses that said no records had been**  
19 **located.**  
20 Q Why did you have the concern for -- for  
21 requests where only a No Records response would be  
22 sent, as opposed to other requests that included

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1 her e-mails but other records, as well?  
2 Why would it not have been -- why would  
3 you not have had the same concern?  
4 MR. GARDNER: Objection. Lack of  
5 foundation.  
6 **A I mean, I don't recall. I mean, I just**  
7 **don't -- I don't recall.**  
8 MS. COTCA: Mark this.  
9 (Hackett Deposition Exhibit 2 marked for  
10 identification.)  
11 BY MS. COTCA:  
12 Q I will show you what will be marked as  
13 Exhibit 2.  
14 MS. COTCA: Actually, I will make less  
15 next time.  
16 MR. PEZZI: Better to be safe than sorry.  
17 **A Okay.**  
18 Q Okay. You have had a chance to look at  
19 it?  
20 **A Yes.**  
21 Q Okay. Can you identify for the record  
22 what this document appears to be?

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1 MR. GARDNER: Objection. Lack of  
2 foundation.  
3 Q You may answer the question.  
4 A **Is this exhibit all one e-mail chain?**  
5 Q It was produced as one document to us by  
6 the State Department in this case.  
7 A **So I -- I mean, I don't know -- I mean,**  
8 **it's a back and forth, obviously. But I don't**  
9 **know which topic specifically it relates to.**  
10 **There's mention of the CREW request. And**  
11 **there's mention of me, you know, talking -- Peggy**  
12 **asking me for all the open Hillary Clinton cases**  
13 **relating specifically to her e-mails.**  
14 **So there's a -- multiple topics are**  
15 **covered here.**  
16 Q Sure. No. Is it -- just, it's an e-mail  
17 string just identifying, just for the record, Gene  
18 Smilansky at the top. And it starts with the  
19 first e-mail at the top August 8, 2013, at 10:21  
20 p.m., from Mr. Smilansky, addressed to Karen  
21 Finnegan and Sheryl Walter.  
22 Is that -- do you see that on the first

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1 page of the document at the top?  
2 A **Yes.**  
3 Q Okay. Okay. If you could look on Page 4  
4 of the document. Which I think you were already  
5 there. An e-mail from Ms. Grafeld, to you and Ms.  
6 Sheryl -- Sheryl Walter, asking you -- or saying  
7 that you mentioned yesterday requests for  
8 Secretary Clinton's e-mails.  
9 Can you tell me about what -- what that  
10 discussion was with respect to her e-mails that  
11 she is referring to in that e-mail to you?  
12 MR. GARDNER: Objection. Form.  
13 A **I don't recall specifically about the**  
14 **conversation she is referring to. I just -- I**  
15 **don't recall.**  
16 **I just remember that after June 2013, we**  
17 **started looking at, you know, again, all of --**  
18 **over that summer looking at, as the -- we were**  
19 **trying to get the ground truth of what, you**  
20 **know -- what was the universe of Hillary Clinton's**  
21 **e-mailing.**  
22 **We started looking at, well, if there are**

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1 **e-mails, we should probably -- you know, we need**  
2 **to look at all the requests relating to, you**  
3 **know -- that might be, you know, responsive.**  
4 Q Okay.  
5 A **Because they were -- because they were**  
6 **just sitting there.**  
7 Q What do you mean by, "because they were  
8 just sitting there"?  
9 A **I believe they hadn't been responded to**  
10 **yet, depending on when they came through.**  
11 Q Okay. What about -- well, let me -- if  
12 you can look on Page 2 and Page 3 of the document.  
13 And it looks like there's communications  
14 about list of open cases and closed cases. And in  
15 one e-mail it says of the 17 cases, 10 are closed;  
16 and then of the remaining 7 open cases, it lists 2  
17 cases that specifically mention e-mails.  
18 Do you see that?  
19 A **Which page is that on?**  
20 Q Page 3.  
21 MR. GARDNER: On Page 3.  
22 A **Okay.**

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1 MR. GARDNER: You've got it there.  
2 A **Yes, I see that.**  
3 Q Okay. Now, not all of these cases,  
4 though, or all of these requests, are -- were all  
5 of these requests not yet in litigation?  
6 MR. GARDNER: Objection. Lack of  
7 foundation.  
8 Q As far as you know.  
9 A **I don't know. I don't know that.**  
10 Q Okay. And then -- well, then  
11 specifically now on Page 2 of the document, there  
12 is an e-mail about a Judicial Watch case, with the  
13 Case Number 2013-772, in front of Judge  
14 Kollar-Kotelly.  
15 Do you see that?  
16 A **Yes.**  
17 Q Okay. So what did your office do with  
18 respect to -- in that case with respect to  
19 resolving this e-mail issue in responding to  
20 Judicial Watch?  
21 MR. GARDNER: Objection. Form.  
22 A **I mean, I don't recall. I don't recall**

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1 **this case.**  
2 **If -- I mean, if this is the case we**  
3 **called the Clinton Foundation case, you know, I**  
4 **would agree with Karen, I don't remember that**  
5 **involving Hillary Clinton's e-mail.**  
6 Q Well, are you familiar with that request?  
7 A **I -- I don't, you know. It's not off the**  
8 **top of my head anymore.**  
9 Q Okay. Are you aware that it asks  
10 specifically for e-mails?  
11 MR. GARDNER: Objection. Lack of  
12 foundation.  
13 A **I didn't recall that.**  
14 Q Okay.  
15 So what was the resolution in how to  
16 respond to these FOIA requests that are noted in  
17 this e-mail string?  
18 A **I don't -- I mean, I don't recall. I**  
19 **mean, if we were -- if we were doing a search, and**  
20 **an e-mail -- certainly we were still investigating**  
21 **about her, you know, e-mail and her e-mail setup.**  
22 **But if something came up in a search, we**

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1 **would certainly -- and it was responsive, we would**  
2 **produce it.**  
3 Q So you're still -- I am just trying to  
4 understand --  
5 A **Sure.**  
6 Q -- what happened.  
7 So you are still investigating the issue  
8 in August of 2013. Correct?  
9 A **Correct.**  
10 Q Okay. And at the same time you -- at  
11 least in the Judicial Watch case, that was already  
12 in litigation. We know that because it has a case  
13 number.  
14 The State Department is still continuing  
15 to respond to the requestor. Correct?  
16 MR. GARDNER: Objection. Form.  
17 A **I -- I mean, I -- I don't recall what the**  
18 **specific production was, and -- for this, you**  
19 **know, litigation.**  
20 Q Okay. And that's fair. I'm just trying  
21 to understand.  
22 Were there conversations at that time,

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1 how does this impact -- how does this issue impact  
2 or this investigation impact our current cases  
3 that relate to Secretary Clinton's e-mails?  
4 MR. GARDNER: Objection. Lack of  
5 foundation.  
6 A **Well, I mean, some of those conversations**  
7 **were with department attorneys.**  
8 MR. GARDNER: So you can obviously  
9 disclose those that did not involve the attorneys.  
10 Otherwise, I would instruct you not to answer  
11 based on privilege.  
12 A **My recollection, again, at that time was,**  
13 **we did have people asking specifically for e-mail,**  
14 **and we did have cases in litigation. So we**  
15 **continued to have conversations about did or did**  
16 **she not have, you know, e-mail.**  
17 Q Okay.  
18 A **And around this, I believe it was late**  
19 **2013 or maybe in 2014, there was another case**  
20 **where -- so we -- we might see snippets of things**  
21 **that we -- there was a -- an e-mail address that**  
22 **was produced in litigation. I can't remember what**

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1 **case that was. But we didn't know what that, you**  
2 **know, meant.**  
3 Q Okay. What e-mail address was produced  
4 in litigation in early 2014?  
5 A **It was a Hillary Clinton e-mail address.**  
6 **Or let me -- let me correct that and say**  
7 **there -- in the documents that were gathered in --**  
8 **and -- and I can't remember whether they were**  
9 **produced to the requestor, there -- there -- there**  
10 **was a discussion about a Hillary Clinton e-mail**  
11 **address within the documents that were gathered.**  
12 Q Just to make sure I understand exactly  
13 what you're saying.  
14 It's not an e-mail address that you  
15 recall, but it's a discussion about an e-mail  
16 account?  
17 Do I have that right, or do I have that  
18 wrong?  
19 A **My recollection is, it was the actual**  
20 **e-mail account and people -- someone reacting and**  
21 **saying, you can't -- you know, you shouldn't use**  
22 **that e-mail account.**



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1 Q And when you're saying, "use that e-mail  
2 account," you're referring -- just to make sure  
3 the record is clear -- to Secretary Clinton.  
4 Correct?

5 A **It was a Secretary Clinton e-mail  
6 account.**

7 Q Okay.

8 A **And people in the department who were  
9 discussing about an e-mail chain, and about not  
10 including her on that e-mail chain.**

11 Q Do you know if that was a State  
12 Department -- State Department account or if it  
13 was her Clintonemail.com account?

14 MR. GARDNER: Objection. Form.

15 A **I believe it was a private account, but I  
16 can't remember which account it was.**

17 Q Do you remember the litigation that  
18 you're speaking -- was it in litigation? I'm  
19 sorry.

20 A **I believe it was in litigation.**

21 Q Okay. Do you recall the lawsuit?

22 A **I don't.**

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1 Q Do you recall who the requestor was?

2 A **It might have been Gawker.**

3 Q Okay. And that was in early 2014?

4 A **Late 2013, early 20 -- 2014.**

5 Q Okay. Upon learning of that e-mail  
6 account in the records that were sent out to  
7 Gawker, assuming it was Gawker's request in early  
8 2014, did your office ever ask any -- when doing  
9 any of the searches in response to FOIA requests,  
10 to search as a search term for that e-mail  
11 account, to see if any of Secretary Clinton's  
12 would appear as part of the search?

13 MR. GARDNER: Objection. Form.

14 A **I -- I don't understand what...**

15 Q Okay. Let me take this -- let me  
16 rephrase.

17 A **Okay.**

18 Q Sure. Part of the Gawker records that  
19 were produced in early 2014, there was an e-mail  
20 account associated with Secretary Clinton.  
21 At that point, when IPS learned of that,  
22 did IPS ever ask any of the taskers to search for

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1 that e-mail address when responding to FOIA  
2 requests related to Secretary Clinton?

3 MR. GARDNER: Objection. Form.

4 A **I don't recall. I don't understand what  
5 they would have searched, though.**

6 Q Well, to search if any of her  
7 correspondences would have appeared in  
8 corresponding with other State Department  
9 officials.  
10 If she would have been the recipient.  
11 MR. GARDNER: Objection. Form.

12 A **I still don't understand.**

13 **If there was a -- if you tasked it out,  
14 would you -- I -- I don't recall. And I wasn't in  
15 the weeds on many of these, you know.**

16 Q And I'm not -- I'm asking more in general  
17 context, not necessarily specific cases.  
18 But generally in cases that dealt with --  
19 in 2014, with Secretary Clinton's e-mail account,  
20 at that point, when IPS knew that Secretary  
21 Clinton had used some personal e-mail account to  
22 correspond while at the State Department, did they

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1 inform or were there any discussions with the  
2 particular bureau when the searches were being  
3 conducted, to make sure that they would search for  
4 her e-mail address to see if it would appear in  
5 any e-mail correspondences with other State  
6 Department officials?

7 A **I don't recall any --**

8 Q Okay. Okay.

9 A **-- conversations like that.**

10 Q Okay. Would that not have been  
11 appropriate to do at that time?

12 A **I -- I'll put on my Records Management  
13 hat. I -- I -- I don't know.**

14 **I mean, we had no knowledge of what that  
15 e-mail address was and if it was associated with,  
16 you know, producing government records. Whether  
17 it contained any government records, let's put it  
18 that way, associated with it.**

19 Q Okay. That's fair.  
20 But you say you didn't know whether it  
21 was associated with any government records. But  
22 the question remains, what did you do to

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1 investigate, or what did your office do to  
2 investigate whether that e-mail was associated  
3 with responsive records to FOIA requests relevant  
4 to Secretary Clinton's e-mails?  
**5 A I don't -- I don't recall. I'm -- I  
6 don't recall.**  
7 Q Okay. I want to just change focus a  
8 little bit to fall of 2014, when you said that  
9 there was a request from the Public Affairs for a  
10 briefing about Secretary Clinton's e-mails.  
**11 A Okay.**  
12 Q Have you ever had a request before from  
13 the Public Affairs office for a similar type  
14 briefing?  
15 MR. GARDNER: Objection. Form.  
**16 A Now, during that time, in 2014?**  
17 Q From 2013 -- when you were at the State  
18 Department, in your role as Director of IPS.  
**19 A Yes.**  
20 Q When was that?  
**21 A I attended a meeting. I can't remember  
22 the year. It was probably 2016 or late 2015,**

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**1 before I left, relating to Colin Powell's e-mails  
2 that were -- the IG was going to release.**  
3 Q Okay. I should have been more focused in  
4 my question.  
5 I meant to ask you prior to, beforehand,  
6 had you had any types of similar requests from  
7 Public Affairs office?  
**8 A Prior to?**  
9 Q Prior to summer of 2014.  
**10 A No.**  
11 Q Okay. Was that an unusual request?  
12 MR. GARDNER: Objection. Lack of  
13 foundation.  
**14 A I mean, I can't speak to whether it  
15 was -- it was -- it was my first one. But, you  
16 know, I can't say whether it's unusual or not.**  
17 Q Okay. And do you know why the Public  
18 Affairs office asked for that briefing?  
**19 A My recollection is that they just wanted  
20 background on her e-mails.**  
21 Q Okay. And maybe you may not be able to  
22 answer this. But if you can, I'll ask it.

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1 Did -- was it usual for Public Affairs  
2 office to ask for a briefing about e-mails of a  
3 State Department official?  
4 MR. GARDNER: Objection. Lack of  
5 foundation.  
**6 A Well -- and I don't want to -- Public  
7 Affairs, I thought, was asking because of the  
8 connection with this production to the Hill; and  
9 they realized that these items were going to be,  
10 you know, released, and more than likely released  
11 to the public by the Benghazi committee.  
12 So they wanted to be prepared to answer  
13 questions about the former Secretary's  
14 records/e-mails.**  
15 Q Okay. Okay. In -- so same time frame,  
16 in the fall of 2014. Is that the same -- had the  
17 State Department at that point requested records  
18 be returned from Secretary Clinton?  
**19 A Shortly after that.**  
20 Q Shortly after that?  
**21 A I believe the next month.**  
22 Q Okay. Are you referring to the letter

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1 that Under Secretary Patrick Kennedy had sent out  
2 to the former Secretaries?  
**3 A Correct.**  
4 Q Okay. I'm -- do you know when -- in  
5 leading up to that letter, do you know when the  
6 first request was made by the department to  
7 Secretary Clinton for any e-mails that she might  
8 have from the State Department in her personal  
9 e-mail account?  
**10 A Since leaving, I know there have been  
11 documents released saying that the department  
12 approached Secretary Clinton in June or July, over  
13 that summer, which was a surprise to me. Because  
14 I hadn't -- I did not know until the drafts of the  
15 letters to go out to the former Secretaries in the  
16 fall of 2014 that we were going to approach her  
17 and the former Secretaries.**  
18 Q Okay. So you're -- so the first time --  
19 and I'm interested in what you were at the time,  
20 so I thank you for clarifying that.  
**21 A Okay.**  
22 Q So then going back to the drafts of these

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1 letters.  
2 Were you involved in drafting these  
3 letters to the former Secretaries?  
4 **A I recall I did review a draft.**  
5 Q Okay.  
6 **A Which I recollect being September of**  
7 **2014.**  
8 Q Okay. So as early as September, then, of  
9 2014 you were aware that the State Department was  
10 going to request -- make a request to Secretary  
11 Clinton for her to return e-mails that may be on  
12 her personal e-mail account relating to her work  
13 at the State Department. Correct?  
14 **A I -- I can't remember the phrasing of the**  
15 **letter that Secretary -- you know, that Pat**  
16 **Kennedy sent to her.**  
17 **I don't think it was in the terms that**  
18 **she --**  
19 Q Sure. And I'm paraphrasing.  
20 **A Okay. But I -- but I just want to be --**  
21 **I don't think he got that specific about e-mails**  
22 **and servers and that kind of --**

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1 Q Oh, sure.  
2 **A -- detail.**  
3 Q Okay. But for her to return any federal  
4 records?  
5 **A In general terms, correct.**  
6 Q In general terms. Okay. Thank you.  
7 I want to show you...  
8 MS. COTCA: If you can mark that.  
9 (Hackett Deposition Exhibit 3 marked for  
10 identification.)  
11 Q Mr. Hackett, if you can look at  
12 exhibit -- what's been marked as Exhibit 3, and  
13 let me know once you have had a chance to review  
14 it.  
15 **A Okay.**  
16 Q Have you had a chance to review it?  
17 **A Yes.**  
18 Q Okay. Do you -- have you seen this  
19 document before? Or a copy of this?  
20 **A Yes.**  
21 Q Okay. And can you tell us, then, what is  
22 this document?

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1 **A I believe this document came not from**  
2 **IPS, but it came from the department-wide**  
3 **Electronic Records Committee, to -- with specific**  
4 **instructions for IT-related people, both domestic**  
5 **and overseas, about how to preserve the e-mail of**  
6 **departing officials.**  
7 Q Okay. Were you involved in drafting or  
8 clearing this document?  
9 **A I'm -- I see that I cleared on the**  
10 **document. So, yes.**  
11 Q Okay. Can you tell us why was this  
12 document created, and why did the State Department  
13 send this out back in August of 2014?  
14 **A My recollection is, again, this relates**  
15 **to the work of the -- the Under Secretary of**  
16 **Management's electronic, whatever they were**  
17 **called, working group.**  
18 **And in the discussions around the table**  
19 **with various members of the department, I think**  
20 **the consensus was there needed to be very specific**  
21 **instructions to the IT-type people, both who are**  
22 **government people and contractors, about how to do**

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1 **some of this stuff of capturing the electronic**  
2 **records, and then making sure that they get**  
3 **forwarded to -- to IPS for retirement.**  
4 Q Okay. Was this done in conjunction with  
5 the concern over the e-mails of Secretary Clinton  
6 being sent over to the Hill?  
7 **A I don't recall that.**  
8 Q Okay.  
9 **A Because I think this was worked on for**  
10 **10 months before that.**  
11 **It has August of 2014 on it, but I -- my**  
12 **recollection is, that committee didn't issue**  
13 **anything very quickly. It was a consensus and it,**  
14 **you know, went around the table several times to**  
15 **be -- before it was approved and sent out as a**  
16 **final document.**  
17 Q Okay.  
18 (Hackett Deposition Exhibit 4 marked for  
19 identification.)  
20 MR. GARDNER: Oh, I'm sorry.  
21 MS. COTCA: You're fine.  
22 Q In conjunction with that document, I'll

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1 ask you to look at what's been marked as Exhibit  
2 4.  
3 **A Uh-huh.**  
4 Q Where's my copy? That's okay. Thank  
5 you. Yeah.  
6 Have you seen this, a copy of this  
7 document before?  
8 **A Yes, I've seen this before.**  
9 Q Okay. Can you tell us what this document  
10 is?  
11 **A This is a -- what in State terms, I think**  
12 **it's called an ALDAC, or something cable, All**  
13 **Diplomatic Consulates, or posts, cable, going to**  
14 **everybody and reminding them of their**  
15 **responsibilities under the Federal Records Act and**  
16 **department guidance; but also giving specific --**  
17 **more specific instruction about personal e-mail**  
18 **accounts.**  
19 Q Okay. And you also cleared this  
20 document. Is that right?  
21 **A Correct.**  
22 Q Okay. What prompted or why did this --

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1 why did this document -- why was it created and  
2 why was it sent out?  
3 **A I don't recall the specifics of it.**  
4 **Though I -- you know, there were concerns about**  
5 **department employees using their personal e-mail**  
6 **accounts.**  
7 Q Is that because of the issue that came to  
8 light with respect to Secretary Clinton's e-mails?  
9 **A I don't recall that. I -- there were**  
10 **others during that time period we found who were**  
11 **using their personal e-mail accounts. And we --**  
12 **this was just sent out as a reminder.**  
13 Q When you say there were others, can you  
14 specify what you're referring to, or who you're  
15 referring to?  
16 **A There were -- there were other employees**  
17 **in the department who were using their personal**  
18 **e-mail accounts for government business.**  
19 Q Okay. Were they senior officials?  
20 **A Some were senior officials, too.**  
21 Q Who were they?  
22 **A I can't remember the time frame, but the**

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1 **IG did a couple of studies, reviews. I think the**  
2 **Ambassador to Japan, Caroline Kennedy, was cited**  
3 **as using her personal e-mail account. That's one**  
4 **that comes to my mind.**  
5 Q Okay. In Paragraph 5, which appears on  
6 Page 2.  
7 **A Uh-huh.**  
8 Q The paragraph that starts, With that in  
9 mind, we recently reminded senior officials and  
10 other selected employees of their records  
11 responsibilities.  
12 Do you see that?  
13 **A Yes.**  
14 Q Okay. And there is a reference to  
15 Patrick Kennedy's August 28, 2014, memorandum?  
16 **A Yes.**  
17 Q Is that referring to what was marked as  
18 Exhibit 3, or was that a different document?  
19 MR. GARDNER: Objection, form. Also  
20 objection, foundation.  
21 **A I don't recall. But I -- I believe,**  
22 **reviewing this, it's probably a separate document.**

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1 Q That it's a different August 2014  
2 memorandum?  
3 **A I don't recall. I don't recall.**  
4 Q Okay. Do you recall any other  
5 memorandums that were sent in August 2014, other  
6 than what was marked as Exhibit 3?  
7 **A I'm just -- I think there might have**  
8 **been -- is this in...**  
9 Q That's all we have.  
10 **A There -- there might have been a cover**  
11 **memo to this.**  
12 Q Okay.  
13 **A And this may be an attachment. That may**  
14 **be my recollection of it.**  
15 Q Okay. Fair. Thank you for that.  
16 There's also -- in Paragraph 6 there's a  
17 line, a sentence, halfway down the paragraph,  
18 Departing employees are also reminded they may  
19 take with them only personal papers and non-record  
20 materials.  
21 Why was that included in this notice?  
22 **A Again, my recollection was that there**

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1 were staff members, including some senior  
2 officials in the department, who were taking  
3 government records with them when they departed.  
4 Q Did that include Secretary Clinton?  
5 A At this period I don't think we knew that  
6 yet. At least I didn't know that yet.  
7 Q You didn't know that on October 30 of  
8 2014?  
9 A No.  
10 Q But you knew that the State Department  
11 was asking for Secretary Clinton to return federal  
12 records. Correct? And that's in this same time  
13 frame.  
14 A In this same time frame, yes. I --  
15 probably by October 30 they're -- either the  
16 letters had gone out or I certainly had seen a  
17 draft of those letters before they went out.  
18 Q Okay. So was your expectation that the  
19 State Department would receive records from  
20 Secretary Clinton in response to the -- to the  
21 letter?  
22 A I don't know. I mean, I had an

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1 expectation. I was hoping, but I did not know,  
2 you know, how -- I couldn't possibly have known  
3 how she would have responded.  
4 Q Okay. Bear with me for a moment as I  
5 sort through my exhibits here.  
6 (Hackett Deposition Exhibit 5 marked for  
7 identification.)  
8 Q I will give you a moment to look at  
9 what's been marked as Exhibit 5.  
10 You have had a chance to review it?  
11 A Yes.  
12 Q Okay. It's an e-mail string with Cheryl  
13 Mills, who was Secretary Clinton's former Chief of  
14 Staff, starting in August 2014 and ending, it  
15 looks like, in September 2014.  
16 Is that a fair description?  
17 MR. GARDNER: Objection. Lack of  
18 foundation.  
19 A Yes.  
20 Q Okay. So I just -- I want to point you  
21 to, if you can go to the last pages of the  
22 exhibit, where Ms. Mills' e-mail dated August 22,

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1 2014, time stamped 9:20 a.m., to David Wade, and  
2 cc'ing Richard Visek and Philippe Reines.  
3 Do you see that?  
4 A Yes.  
5 Q First, who is David Wade, can you  
6 identify for the record?  
7 A I believe he was Secretary Kerry's Chief  
8 of Staff.  
9 Q Okay. And how about Richard Visek?  
10 A Rich Visek I believe then was Acting  
11 Legal Advisor for the department.  
12 Q Okay. And Philippe Reines was a former  
13 State Department official under Secretary Clinton.  
14 Correct?  
15 A Yes.  
16 Q Okay. Do you see -- and I want to ask  
17 you about this notation. I want -- that Ms. Mills  
18 writes, I wanted to follow up on a request last  
19 month about getting hard copies of Secretary  
20 Clinton's e-mails to/from accounts ending in  
21 ".gov" -- that's in quotes -- for her tenure at  
22 the department.

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1 Do you see that?  
2 A Yes.  
3 Q Okay. Were you aware that in August 2014  
4 there had already been discussions between Ms.  
5 Mills and officials at the State Department in  
6 which Ms. Mills confirmed returning hard copies of  
7 Secretary Clinton's e-mails to/from accounts  
8 ending in .gov?  
9 A No.  
10 Q In the drafting of the letters that went  
11 out to the former Secretaries, which I believe you  
12 said it was in September and October of 2014,  
13 Richard Visek, he was involved in that. Correct?  
14 MR. GARDNER: Objection. Form.  
15 A I -- I don't recall. My recollection is  
16 they came from the Under Secretary of Management's  
17 office.  
18 Q When you say, they came from the Under --  
19 A They --  
20 Q -- if you can --  
21 MR. GARDNER: Let her finish her question  
22 first.

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1 THE WITNESS: Yeah. Yeah.  
2 Q If you can clarify what you mean.  
3 **A The letters.**  
4 Q Right.  
5 **A The drafts of the letters.**  
6 Q Okay. Thank you. That's what I meant.  
7 So the drafts of the letters came from  
8 the Under Secretary's office?  
9 **A My recollection was they came from the**  
10 **Under -- from Pat Kennedy's office --**  
11 Q Okay.  
12 **A -- the Under Secretary for Management.**  
13 Q Okay. And you received copies of those  
14 drafts when they were being prepared. Correct?  
15 **A I recall that I did see drafts before**  
16 **they went out. Maybe not of all of them, but at**  
17 **least of the one to Secretary Clinton and maybe to**  
18 **the one to Secretary Powell.**  
19 Q Okay. From the Legal Advisor's office,  
20 do you know who was involved in helping draft  
21 those letters?  
22 MR. GARDNER: Objection. Lack of

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1 foundation.  
2 **A I don't recall.**  
3 Q Okay. Going back briefly to the CREW  
4 request.  
5 You mentioned the FOIA request that was  
6 referenced in the exhibit -- I don't know which  
7 exhibit number that is.  
8 MR. GARDNER: Are you talking about  
9 Exhibit 2?  
10 MS. COTCA: Exhibit 2. Thank you.  
11 Q You referred to the request as "the CREW  
12 request," and I just want to make sure we are  
13 talking about the same thing.  
14 What did you mean by, "the CREW request"?  
15 **A The CREW request that I remember came in**  
16 **prior to my arrival at the State Department. I**  
17 **think it came in December 2012.**  
18 **And it was a government-wide request by**  
19 **Anne Weismann, the Director of CREW, Citizens**  
20 **Responsible for...**  
21 Q I believe it's Citizens For  
22 Responsibility and Ethics in Washington.

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1 **A And I -- I vaguely remember the request**  
2 **relating not specifically to the Secretary's**  
3 **e-mails, but more about e-mail addresses by**  
4 **government officials. That's what I --**  
5 Q Okay.  
6 **A -- remember about it.**  
7 Q Okay.  
8 MS. COTCA: Can you mark this as an  
9 exhibit.  
10 (Hackett Deposition Exhibit 6 marked for  
11 identification.)  
12 Q Have you had a chance to review it?  
13 **A Yes.**  
14 Q Okay. Is this the CREW request that you  
15 were referring to?  
16 **A I believe so, yes.**  
17 Q Okay. And just to make sure that it's  
18 clear, it's a request for records sufficient to  
19 show the number of e-mail accounts of or  
20 associated with Secretary Hillary Rodham Clinton,  
21 and the extent to which those e-mail accounts are  
22 identifiable as those of or associated with

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1 Secretary Clinton.  
2 Is that right?  
3 **A Yes.**  
4 Q Okay. Back in 2013 when you were having  
5 the discussions with Ms. Walter and the e-mail --  
6 or the communications reflected in Exhibit 2, were  
7 there any discussions about how -- you know, what  
8 efforts the State Department could take to  
9 identify what e-mail accounts Secretary Clinton  
10 used?  
11 And this is asking after you saw the  
12 picture of Secretary Clinton with the BlackBerry.  
13 MR. GARDNER: Can you reask that question  
14 again. I'm sorry, it's slightly confusing the way  
15 it's asked.  
16 MS. COTCA: Sure.  
17 MR. GARDNER: Thank you.  
18 MS. COTCA: Sure.  
19 Q After you saw the picture of Secretary  
20 Clinton with a BlackBerry in early 2013 -- what  
21 was the month again?  
22 **A June.**

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1 Q June. Thank you.  
2 A **2013.**  
3 Q In June 2013.  
4 Were there any discussions within your  
5 office or with State Department officials about  
6 what efforts to undertake to see if there are  
7 e-mails, e-mail accounts associated with Secretary  
8 Clinton in response to the CREW request?  
9 MR. GARDNER: To the extent you can  
10 answer that question without disclosing privileged  
11 information, you may do so. Otherwise, I would  
12 instruct you not to answer.  
13 A **Well, as I mentioned previously, you**  
14 **know, in June 2013, after the photograph came out,**  
15 **we tried to figure out what that meant, the former**  
16 **Secretary holding a BlackBerry; and also what**  
17 **addresses she might have had, or did she have**  
18 **private, you know, or government -- a private or**  
19 **government account.**  
20 **At the same time -- and I think it's**  
21 **reflected in Exhibit 2 -- there were discussions**  
22 **about, has the CREW request been responded to yet.**

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1 **But I wasn't -- you know, I wasn't involved in the**  
2 **response to the CREW request.**  
3 **And I will tell you that when the IG**  
4 **started looking at the CREW request case, there**  
5 **was some uncertainty, you know, whether or not**  
6 **there -- a response had even been, you know,**  
7 **issued at all. I'm now told that there -- there**  
8 **was a response that had been, you know, issued.**  
9 **But, again, that photograph kind of**  
10 **stirred up everything, and -- and we were asking**  
11 **has -- and I think Sheryl says it in Exhibit 2 --**  
12 **has the response to -- you know, what happened to**  
13 **the CREW request.**  
14 **So I think there are two pieces to that;**  
15 **there's the CREW request, but also our hunt for --**  
16 **again, for the ground truth of what's behind**  
17 **Hillary Clinton's BlackBerry, what's behind this**  
18 **address we found in -- in the Gawker case.**  
19 Q And it was Ms. Walter who sent the  
20 response to the CREW request? Is that your  
21 understanding?  
22 A **I don't recall.**

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1 Q Have you -- in preparation for today,  
2 have you reviewed the State Department's response  
3 to the CREW request?  
4 A **I don't -- I don't recall whether it was**  
5 **shown to me or not.**  
6 Q Okay.  
7 A **I think it was advised that a request had**  
8 **gone out.**  
9 Q You mean a response?  
10 A **A response, excuse me.**  
11 Q Sure. Not a problem.  
12 Well, I can't find it right now, but we  
13 can talk about it. Were you aware at the time --  
14 and the time frame is June through August of 2013,  
15 this time frame -- that the request went out  
16 saying there were no responsive records, in  
17 response to the CREW request?  
18 A **No.**  
19 Q Okay.  
20 A **I don't recall it. I -- I did not**  
21 **recall -- remember seeing the response going out**  
22 **when it went out.**

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1 Q Okay. Okay. Do you see the e-mail from  
2 Ms. Finnegan on Exhibit 2, on the first page,  
3 August -- dated August 7, 2013, to Ms. Walter, and  
4 cc'ing Gene Smilanksy?  
5 MR. GARDNER: Sorry. Which e-mail?  
6 August 7?  
7 MS. COTCA: It's the second e-mail from  
8 the top.  
9 MR. GARDNER: Okay.  
10 Q Ms. Finnegan's e-mail to Ms. Walter,  
11 August 7, 2013, at 5:12.  
12 Do you see that?  
13 A **Yes.**  
14 Q Okay. Do you see that -- where Ms.  
15 Finnegan says that, Gene reports that we did  
16 respond to this request?  
17 Were there -- did you at that point in  
18 August, when these discussions were had, did you  
19 recall being informed, even if it was after the  
20 fact, that a No Records response had been sent out  
21 to CREW?  
22 A **I don't recall.**

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1 Q Okay. Is there a reason if -- if you,  
2 Sheryl Walter, and Patrick Scholl, I believe, sent  
3 out an alert that a No Records response should not  
4 be sent out for requests asking for Secretary  
5 Clinton's e-mails, or related to her e-mails, is  
6 there a reason why -- or was there a corrected  
7 response submitted to CREW in August of 2017 -- or  
8 2013?  
9 A No.  
10 Q Okay. Why not?  
11 MR. GARDNER: Objection. Lack of  
12 foundation.  
13 A I -- I don't recall.  
14 Do you -- you don't have a copy of the  
15 CREW request -- I mean, the CREW response?  
16 Q My co-counsel here just found it.  
17 MR. GARDNER: Yay for co-counsels.  
18 MS. BURKE: That's right. I just don't  
19 have copies.  
20 MS. COTCA: Yeah. We'll just give you  
21 the only copy that I have. Let's mark this as an  
22 exhibit.

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1 (Hackett Deposition Exhibit 7 marked for  
2 identification.)  
3 A I mean, this is dated May of 2013.  
4 Q Correct.  
5 And, for the record, it's signed by Ms.  
6 Sheryl Walter. Correct?  
7 A It's -- no, it's not signed by. It's  
8 just signed by RJ Bolton.  
9 Q Oh, let me see that.  
10 A Which is -- he's a senior former  
11 foreign --  
12 Q Senior what?  
13 A Former Foreign Service Officer.  
14 Q Okay. But within the office of Sheryl  
15 Walter. Is that right?  
16 A Correct.  
17 Q Okay.  
18 A I mean, I didn't see this when this went  
19 out. But given that it's prior to the photograph,  
20 this may reflect the ground truth that was known  
21 about, you know, her e-mail at that time.  
22 Q When you're saying, "at that time," in

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1 May -- on May 10, 2013, or -- what time are you  
2 referring to?  
3 A May 10, 2013.  
4 Q When the response went out. Correct?  
5 A Correct.  
6 Q Okay. But I'm speaking after the  
7 response went out, and in June 2013 you see this  
8 photograph of Secretary Clinton holding a  
9 BlackBerry, and that raises a concern to you and  
10 others in your department.  
11 And then there's a notice sent out that  
12 No Records response should not be sent out anymore  
13 for FOIA requests relating to Secretary Clinton's  
14 e-mails.  
15 Were there any discussions of how to  
16 handle No Records responses that had just gone  
17 out?  
18 MR. GARDNER: Objection. Form.  
19 A I don't recall.  
20 Q Okay. Do you think it would have been  
21 appropriate to send a corrected response to CREW,  
22 in light of the concerns that you raised in --

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1 from June through August of 2013?  
2 MR. GARDNER: Objection. Form.  
3 A I -- I mean, CREW saw the same picture as  
4 we did in June of 2013, more than likely.  
5 Q Well, you're assuming that.  
6 A I -- well...  
7 MR. GARDNER: He's answering a question.  
8 MS. COTCA: Sorry.  
9 MR. GARDNER: Let him finish his answer.  
10 A Again, we didn't know what that, you  
11 know, photograph meant. So what would we have  
12 told -- I mean, I'm just speculating at what would  
13 we have told CREW back then, if we were making a  
14 correction.  
15 We did not know what that photograph  
16 meant or what even having an e-mail -- a private  
17 e-mail address of hers meant back in 2013.  
18 Q Okay. So you just let it sit as it was?  
19 MR. GARDNER: Objection. Form.  
20 A Me John Hackett let it sit, or...  
21 Q Your department.  
22 A Well --



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1 MR. GARDNER: Objection. Form.  
2 **A – you know, yeah, I mean, I don't know**  
3 **what to say.**  
4 Q Okay. What about in -- when Secretary  
5 Clinton's e-mail appeared in the Gawker case; did  
6 you think it would have been appropriate at that  
7 time to send a corrected response to CREW?  
8 **A I can't speculate.**  
9 Q Well, as you sit here today.  
10 MR. GARDNER: Objection. Form.  
11 **A Well, I mean, again, I don't think we**  
12 **knew what that -- what that meant, that address**  
13 **meant.**  
14 Q Well, you knew that the address meant  
15 that she e-mailed from that account for State  
16 Department work. Correct?  
17 **A Not relating to the Gawker case, or**  
18 **whatever case that was.**  
19 **We knew that some employees at times had**  
20 **a personal e-mail address for Hillary Clinton, and**  
21 **that they might forward something to her at times.**  
22 **That's the only thing that we knew.**

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1 Q Who were the employees that you knew?  
2 **A I don't know. Whoever was in that, you**  
3 **know, e-mail chain in the case.**  
4 **At that time I did not know who those**  
5 **employees were. I mean, the -- the gist of that**  
6 **e-mail I remember was one person saying to the**  
7 **other person, don't use that -- remember, you're**  
8 **not supposed to use that e-mail. But I don't**  
9 **remember who those people were.**  
10 **I think one of them might have been in**  
11 **Public Affairs.**  
12 Q Okay.  
13 MR. GARDNER: I don't want to cut you off  
14 from a line of questioning, but we have been going  
15 for over an hour, it's about lunch time. Would  
16 now be a good time to break?  
17 MS. COTCA: That's fine. I'm fine to  
18 break any time.  
19 Would you like to break now?  
20 THE WITNESS: Sure.  
21 MS. COTCA: Okay.  
22 VIDEO SPECIALIST: We are going off the

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1 record at 12:29.  
2 (A recess was taken.)  
3 VIDEO SPECIALIST: We are going back on  
4 the record at 13:24.  
5 BY MS. COTCA:  
6 Q Mr. Hackett, I believe we left off  
7 talking about the Gawker request.  
8 My question is, after you found out about  
9 Secretary Clinton's personal e-mail account in the  
10 Gawker case, in or around January 2014, what did  
11 you do as the Director of IPS to ensure that her  
12 e-mails were searched in response to FOIA?  
13 **A A couple of things.**  
14 **I wasn't Director yet. I was still**  
15 **Deputy Director in January.**  
16 Q Of 2014?  
17 **A 2014.**  
18 Q Thank you for that.  
19 **A It was spring of 2014 I became Acting**  
20 **Director.**  
21 **And, again, you know, we weren't sure**  
22 **what this address meant. And I think we were --**

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1 **my recollection is, we were still trying to gather**  
2 **information about -- at least IPS was, about what**  
3 **this e-mail address, you know, meant.**  
4 **Again, the records I wasn't directly**  
5 **involved in. I believe the Records Managers**  
6 **were -- whether it was Tasha Thian or maybe later**  
7 **Bill Fischer -- might have been trying to pursue**  
8 **to find out what, you know, that e-mail address**  
9 **meant.**  
10 **But we certainly did not know if there**  
11 **were any records behind it. We just knew it was**  
12 **an e-mail address and people did send her stuff,**  
13 **at that time we thought, on occasion.**  
14 Q Okay. And for those e-mails that would  
15 be sent on occasion, is there anything that you  
16 did to make sure that those were captured in  
17 searches responding to FOIA?  
18 **A At that time, no.**  
19 Q Okay. When did you begin doing something  
20 about it, to ensure that they were being captured  
21 in response to FOIA?  
22 **A I mean, we -- we didn't know what that**

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1 e-mail address, you know, meant. We didn't -- I  
2 mean, you know, I'm talking about this in, you  
3 know, hindsight, having the know.  
4 But then in January 2014, or whenever the  
5 Gawker case, this kind of one address popped out,  
6 we still didn't know what that meant.  
7 And my recollection is that there were  
8 either the Office of Legal Advisor or my  
9 management were handling the -- helping us handle  
10 to try to get, you know, to the ground truth of  
11 what that, you know, e-mail address meant.  
12 But down at my level, you know, we were  
13 going through Clarence, or Mr. Finney, Clarence  
14 Finney, in the Secretary's office. Clarence was  
15 talking to the IT people in the Secretary's  
16 office.  
17 But that's the only thing -- we were  
18 doing the only things we could at our level in --  
19 in the big State Department.  
20 Q Okay.  
21 MS. COTCA: Mark this.  
22 (Hackett Deposition Exhibit 8 marked for

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1 identification.)  
2 A Okay.  
3 Q Have you had a chance to review it?  
4 A Yes.  
5 Q Okay. This is Exhibit 8. And it appears  
6 to be an e-mail string, with the top e-mail from  
7 Margaret P. Grafeld, to Eric Stein, Celeste  
8 Houser-Jackson, you, and William P. Fischer.  
9 Is that accurate?  
10 A Correct.  
11 Q Okay. And there are additional  
12 individuals on the cc line that I didn't read out.  
13 The subject matter is S records. Do you  
14 see that?  
15 A Yes.  
16 Q Okay. Does that refer to Secretary  
17 Clinton records?  
18 A Yeah.  
19 MR. GARDNER: Object.  
20 A Well --  
21 MR. GARDNER: Objection. Lack of  
22 foundation.

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1 A I believe so, yes.  
2 Q Okay. Why do you believe so?  
3 A I mean, this is September 2014. And I --  
4 I believe there -- you know, there were probably  
5 discussions about the Secretary's records going on  
6 then.  
7 Q Okay. Do you recall this e-mail?  
8 Or does this document refresh your  
9 recollection about the conversations that's  
10 reflected in this document?  
11 A I -- I -- it's redacted. I -- I don't  
12 recall what the content is, no.  
13 Q Okay. Do you know what the "fact  
14 finding" reference in Ms. Grafeld's e-mail refers  
15 to?  
16 MR. GARDNER: To the extent you can  
17 answer that question without divulging privileged  
18 information, you may do so. Otherwise, I would  
19 instruct you not to answer.  
20 A I don't recall.  
21 Q Is it fair to say that the fact finding  
22 on this topic refers to Secretary Clinton's

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1 records, based on the Subject line of the e-mail?  
2 MR. GARDNER: Objection. Lack of  
3 foundation.  
4 A I -- I can't say. I mean, it could be  
5 Secretary Clinton's records, or it could be about  
6 record keeping in the Secretary's office which  
7 was, you know, a discussion around that time as  
8 well.  
9 Q Fast-forward a few months from this time  
10 period.  
11 Secretary Clinton did in fact return  
12 records to the State Department in December.  
13 Correct?  
14 A Correct.  
15 Q Okay. Can you tell us -- well, were you  
16 involved in -- were you involved in picking up and  
17 the collection of Secretary Clinton's e-mails from  
18 her attorneys?  
19 A The actual physical picking up of them?  
20 Q No. Whatever process would be laid out  
21 how to pick it up, how to pick them up, et cetera.  
22 A The organization that I directed at that

<p style="text-align: right;">101</p> <p><b>1 time was responsible for picking up the -- the</b> <b>2 e-mails.</b> 3 Q Okay. 4 <b>A The boxes.</b> 5 Q Okay. And who in your office picked up 6 the boxes? 7 <b>A I believe -- I believe it was Bill</b> <b>8 Fischer.</b> 9 Q And what was his position in your 10 department? 11 <b>A I believe -- my recollection is -- and he</b> <b>12 changed jobs. But at that period of time I</b> <b>13 believe he was the agency's records officer.</b> 14 Q Okay. Do you recall the date that the 15 boxes were picked up with Secretary Clinton's 16 e-mails? 17 <b>A It was December of 2014, first or second</b> <b>18 week. I can't -- it was the 12th of December.</b> 19 Q I don't want you to guess. 20 <b>A I can't remember. I don't --</b> 21 Q So I will show you something that may 22 refresh your recollection.</p>	<p style="text-align: right;">103</p> <p>1 is the third e-mail from the top, with the Subject 2 line, HRC pick-up? 3 And you state, HRC's attorneys have 4 paperwork they have created for Bill to sign at 5 the time of the pick-up. 6 Do you see that? 7 <b>A Yes.</b> 8 Q Okay. What is the pick-up that's 9 referred to in your e-mail there? 10 <b>A To pick up the boxes.</b> 11 Q And that's the boxes of Secretary 12 Clinton's e-mails? 13 <b>A Yes.</b> 14 Q Okay. And that was -- was that done -- 15 then done on December 5, 2014? 16 <b>A I -- I don't know the exact date.</b> 17 Q Okay. Do you recall the discussion about 18 a draft of something that her attorneys -- and by 19 "her" I mean Secretary Clinton -- wanted Mr. 20 Fischer to sign at the time of the pick-up? 21 <b>A I don't recall that, no.</b> 22 Q Okay.</p>
<p style="text-align: right;">102</p> <p><b>1 A Sure.</b> 2 (Hackett Deposition Exhibit 9 marked for 3 identification.) 4 Q Have you had a chance to look at it? 5 <b>A Yes.</b> 6 Q Okay. And it's marked as Exhibit 9. 7 Correct? The bottom sticker there. 8 <b>A Yes.</b> 9 Q Okay. Thank you. And can you -- and 10 this is -- this appears to be an e-mail string 11 between you and Eric Stein on December 5, 2014. 12 Is that right? 13 <b>A Yes.</b> 14 Q Okay. Do you remember the substance of 15 the conversation that's reflected in these 16 e-mails? 17 <b>A No, I don't.</b> 18 Q By reading this, is it refreshing your 19 recollection at all? 20 <b>A No.</b> 21 Q Do you see the -- your e-mail on Friday, 22 December 5, 2014, time stamped 10:00 a.m., which</p>	<p style="text-align: right;">104</p> <p>1 MS. COTCA: We'll mark this as Exhibit 2 10. 3 (Hackett Deposition Exhibit 10 marked for 4 identification.) 5 Q If you can look at Exhibit 10, and let me 6 know when you have finished reviewing it. 7 <b>A Okay.</b> 8 Q Have you seen this, a copy of this 9 document before? 10 <b>A I don't recall.</b> 11 Q Okay. It appears to be an Acknowledgment 12 of Receipt, signed by William Fischer on 12/5/14, 13 at 12:40 p.m. 14 Is that fair to say? 15 <b>A That's what the document reflects, yes.</b> 16 Q Okay. And in the bullet points of this, 17 it lists Box 1 through 12. 18 Do you see that? 19 <b>A Yes.</b> 20 Q Okay. Are these the boxes that contained 21 the e-mails that were returned by Secretary 22 Clinton?</p>

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1 **A I mean, according to this receipt, they**  
2 **are.**  
3 Q Okay. Do you have any reason to believe  
4 that this receipt is not accurate?  
5 **A No.**  
6 Q Okay. Do you know if this is the draft  
7 or the document that Secretary Clinton wanted Mr.  
8 Fischer to sign at the time of the pick-up?  
9 **A I don't know.**  
10 Q Okay. Was this created by Secretary --  
11 by the State Department --  
12 MR. GARDNER: Objection.  
13 Q -- this document?  
14 MR. GARDNER: Objection. Lack of  
15 foundation.  
16 Q If you know.  
17 **A I -- I don't recall.**  
18 Q Okay. Okay. Back to Exhibit 9. Mr.  
19 Stein asked whether Mr. Fischer should have a  
20 lawyer with him.  
21 And you responded at 10:02 a.m., It might  
22 be a good idea.

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1 Do you recall why you said it may be a  
2 good idea for Mr. Fischer to have a lawyer with  
3 him?  
4 **A I think it -- you know, we didn't know**  
5 **what they wanted -- wanted us to sign. And, so,**  
6 **we just wanted to see it ahead of time.**  
7 **We also were having discussions amongst**  
8 **ourselves about, should we have them sign a**  
9 **receipt that we came up with.**  
10 **So this is why I'm kind of unfamiliar**  
11 **with the -- these documents or -- and I just don't**  
12 **remember them.**  
13 Q Okay. Did you have receipts that the  
14 State Department asked for -- by "them," I'm  
15 assuming you meant Secretary Clinton's attorneys  
16 to sign. Right?  
17 **A Correct. But I don't recall.**  
18 Q Okay. All right. Once the documents  
19 were picked up, how soon -- or when were you first  
20 notified that the e-mails -- or the boxes had been  
21 picked up?  
22 **A I don't recall.**

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1 Q Would you have been informed shortly --  
2 that same day that -- to let you know that the  
3 boxes had and did get picked up?  
4 **A Yes.**  
5 Q Okay.  
6 **A I think I remember that they contacted me**  
7 **when they returned to our building that they had**  
8 **been picked up.**  
9 Q Okay. With respect to Secretary  
10 Clinton's return of her e-mails, when were you  
11 first informed -- when did you first know that she  
12 would be returning records to the State  
13 Department?  
14 **A Can you -- can I ask you to kind of**  
15 **reframe the question?**  
16 **Or I knew when she would be returning**  
17 **something, e-mails, when the boxes appeared.**  
18 Q Right.  
19 **A Now, the other part of that is, we did**  
20 **not know that they were records, the department**  
21 **records, until much later.**  
22 Q What did -- what did you believe them to

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1 be when they were picked up?  
2 **A We just knew that they were e-mails. And**  
3 **we -- no other, you know -- I don't even remember**  
4 **this, the list of register.**  
5 **But we -- we did not look at them for at**  
6 **least a month after they came in.**  
7 Q Okay. But my question is, after the  
8 drafts were prepared for the letters to go out to  
9 Secretary Clinton and the former Secretaries in  
10 October time frame of 2014, and before these boxes  
11 were picked up, when were you first made aware  
12 that there would be boxes or any materials that  
13 would need to be picked up or returned by  
14 Secretary Clinton in response to Patrick Kennedy's  
15 letter?  
16 **A My recollection is it was not until just**  
17 **before we were supposed to go and pick these boxes**  
18 **up.**  
19 Q By -- when you mean "just before," you  
20 mean a matter of a few days, or -- and I don't  
21 want to put words in your mouth.  
22 But if you can clarify what you mean by,

<p style="text-align: right;">109</p> <p>1 "just before." 2 <b>A I think a couple of days just prior to</b> 3 <b>Mr. Fischer going to pick up the boxes.</b> 4 Q Okay. And at that point was there a 5 process in place with respect to what to do with 6 these records once they are delivered to the State 7 Department? 8 <b>A No.</b> 9 Q Okay. Were there discussions about what 10 to do with the records once they are delivered to 11 the State Department? 12 <b>A Yes.</b> 13 Q Okay. Can you tell me about those 14 discussions? 15 MR. GARDNER: And to the extent you can 16 do so without divulging privileged information, 17 obviously you may do so. 18 To the extent you can't, I would instruct 19 you not to answer. 20 <b>A Well, any discussions about what to do</b> 21 <b>with the material came after their arrival. And</b> 22 <b>the first thing I was told was -- by Margaret</b></p>	<p style="text-align: right;">111</p> <p>1 substance of the conversation, did you converse 2 with State Department attorneys that Secretary 3 Clinton's records had been returned to the State 4 Department? 5 Without identifying whether they're 6 federal records or not. 7 MR. GARDNER: So you're just asking for a 8 yes or no answer? 9 MS. COTCA: Yes. 10 MR. GARDNER: Okay. Do you understand 11 that? 12 <b>A I don't recall a conversation with</b> 13 <b>anybody in the Office of Legal Advisor or at that</b> 14 <b>time about..</b> 15 Q What about anybody, any of the attorneys 16 in this current case? 17 MR. GARDNER: Again, you can answer that 18 with a yes or no. 19 Q Yes. 20 MR. GARDNER: Without getting into the 21 substance of conversations. 22 <b>A In December of 2014, when these first</b></p>
<p style="text-align: right;">110</p> <p>1 <b>Grafeld, was to do nothing with them; that they</b> 2 <b>were to put -- be put in her conference room and</b> 3 <b>they were to be -- remain there.</b> 4 <b>At the same time copies were going to</b> 5 <b>also be made, additional copies, sets of these</b> 6 <b>records. But from a processing standpoint, they</b> 7 <b>were to be remained -- a determination had -- had</b> 8 <b>not been made whether these were records of the</b> 9 <b>State Department.</b> 10 Q How did these records impact your 11 department at the time that they were delivered to 12 the State Department in the context of responding 13 to FOIA requests? 14 MR. GARDNER: Objection. Form. 15 <b>A Initially they didn't have an impact at</b> 16 <b>all, because there was some discussion within the</b> 17 <b>department.</b> 18 <b>Again, I was told not to do anything with</b> 19 <b>them, as a discussion went on regarding whether</b> 20 <b>these were personal -- be considered personal</b> 21 <b>e-mails or not, versus State Department records.</b> 22 Q Okay. Now, without getting into the</p>	<p style="text-align: right;">112</p> <p>1 <b>came in?</b> 2 <b>As I said, I mean, these were -- we were</b> 3 <b>told not to do anything with them.</b> 4 Q I understand that. I'm just trying to 5 understand if you had -- I just want to know if 6 you had any communications with the attorneys in 7 this case about the fact that these 12 boxes were 8 collected that contained e-mails from Secretary 9 Clinton? 10 <b>A I don't recall.</b> 11 Q Okay. You mentioned that copies were 12 made of the material. Is that right? 13 <b>A Yes.</b> 14 Q Okay. What -- can you tell me more about 15 what the copies were made for, and to whom or what 16 departments they were provided to? 17 <b>A My recollection, there were two or three</b> 18 <b>sets that were made. One went to the Legislative</b> 19 <b>Affairs office. And I think another went to --</b> 20 <b>Office of Legal Advisor got a set. And I can't</b> 21 <b>remember where the third -- there might have been</b> 22 <b>another set, where that went.</b></p>

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1 **We may have gotten a duplicate set.**  
2 Q By "we," you mean IPS?  
3 **A IPS, yes. Sorry.**  
4 Q Okay. And then what about Mr. Finney's  
5 office; did he get a copy?  
6 **A Yes.**  
7 Q Okay. And why was a copy provided to Mr.  
8 Finney's office?  
9 MR. GARDNER: Objection. Lack of  
10 foundation.  
11 **A I think that eventually a copy was**  
12 **provided to Mr. Finney's office, after we made a**  
13 **determination that these were government records**  
14 **and that they should be incorporated into the**  
15 **records of the Secretary's office.**  
16 Q Okay. And when was that determination  
17 made?  
18 **A I think the appraisal conducted by Mr.**  
19 **Fischer was not completed until February.**  
20 Q Okay.  
21 **A Of 2015.**  
22 Q Okay. So once the -- are you -- are you

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1 saying that once the appraisal was completed,  
2 that's when the determination was made?  
3 **A I can't -- I can't remember the**  
4 **chronology of when.**  
5 **The boxes came in in December of 2014.**  
6 **Other than copying them, no one looked at the**  
7 **content of those boxes, as far as I know, at IPS**  
8 **until I looked at them in early January, the first**  
9 **or second week of January.**  
10 **At the end of January we performed a**  
11 **briefing to the Under Secretary of Management**  
12 **about some of the topics, or more the records --**  
13 **the records content. Basically telling him that**  
14 **we thought these were definitely records of the**  
15 **department, and showed him examples.**  
16 **And then that kicked off a formal**  
17 **appraisal, based on the National Archives rules,**  
18 **performed by Mr. Fischer. And that was not**  
19 **completed -- he had a team, and that wasn't**  
20 **completed until February.**  
21 Q Okay. So then I want to focus on when  
22 you started looking at these records in first or

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1 second week in January.  
2 Why did it take nearly six weeks, five to  
3 six weeks, for you to look through the boxes to  
4 see what these records were?  
5 **A I had instructions from Margaret Grafeld**  
6 **not to touch these records. And that -- she also**  
7 **told me at that time that there were discussions**  
8 **going on in the department regarding whether or**  
9 **not these should be considered federal records,**  
10 **and that I wasn't to do anything with them.**  
11 Q Okay. So -- I'm sorry. Were you going  
12 to say something else?  
13 **A No.**  
14 Q Okay. So my next followup was going to  
15 be, do you know why Ms. Grafeld instructed you not  
16 to touch them?  
17 But I think you just answered the  
18 question. Is it because of the discussion, or  
19 some other reason?  
20 **A It was because of the discussion.**  
21 Q Okay. And by "discussion," that's within  
22 the department, whether these should be considered

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1 federal records?  
2 **A Correct.**  
3 Q Okay. Do you know who was involved in  
4 those discussions?  
5 **A I don't. I don't know.**  
6 Q Did you raise any concerns to Ms. Grafeld  
7 about the fact that you had 12 boxes of documents  
8 that you didn't know whether they should be  
9 included in responding to FOIAs at the time?  
10 **A I raised that concern after I looked at**  
11 **one of the boxes.**  
12 Q First or second week in January?  
13 **A Correct.**  
14 Q And what did Ms. Grafeld -- how did she  
15 respond to your concern?  
16 **A My recollection is, she instructed me to**  
17 **prepare a briefing for the Under Secretary of**  
18 **Management and the Assistant Secretary about what**  
19 **I had found.**  
20 Q Okay. So before you looked through the  
21 boxes in the first week or second week of January,  
22 did you have another conversation with Ms. Grafeld

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1 where she permitted you to look through the boxes?  
2 Or what prompted you to look through them  
3 the first or second week in January?  
4 **A She told -- first Peggy told us not to do**  
5 **anything with the boxes.**  
6 Q Uh-huh.  
7 **A So I think I took some time off, you**  
8 **know, for the holidays. And then I came back**  
9 **either -- the first week of January. And there**  
10 **was -- she told me, Why haven't you been looking**  
11 **at the boxes.**  
12 **So I went and, like, opened one of the**  
13 **boxes up to look and see what was there.**  
14 Q Did you respond to Ms. Grafeld, I thought  
15 you told me not to look at them?  
16 Or how did that conversation go?  
17 **A I don't recall that. But I just went and**  
18 **started looking in the boxes.**  
19 Q Okay. Did -- so did you look through all  
20 of the boxes?  
21 **A No. I -- I -- to kind of save time**  
22 **and -- and to -- because of pending congressional**

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1 **interest and FOIA requests, FOIA litigation, I**  
2 **went to the boxes -- to the box that might cover**  
3 **the Benghazi period, so September to December**  
4 **2012.**  
5 Q Is that because of the time frame?  
6 **A Yes.**  
7 Q Okay. And as far as you know, did the  
8 boxes just contain e-mails, or were there any  
9 other type of documents that were included in the  
10 boxes?  
11 **A The boxes contained mostly e-mails,**  
12 **though. And I -- my recollection of that one box,**  
13 **I think they were mostly e-mails.**  
14 **Now, whether these -- the non-mail**  
15 **material were attachments or there were other**  
16 **kinds of documents in there, that I don't recall.**  
17 **And -- I just don't recall.**  
18 Q Do you know if Secretary Clinton returned  
19 drafts as part of the 12 boxes that were returned  
20 to the State Department?  
21 **A I don't recall. I -- I don't recall.**  
22 Q How about --

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1 **A Excuse me. I think there were draft --**  
2 **certainly drafts sent to her regarding issues.**  
3 Q I'm specifically asking about drafts that  
4 she may have had, that she may have been working  
5 on.  
6 **A I don't recall that.**  
7 Q Okay. Do you recall if Secretary Clinton  
8 returned any memos with the material that was  
9 returned on December 5, 2014?  
10 **A No, I don't recall that.**  
11 Q Okay. How about any notes?  
12 **A I don't recall that, no.**  
13 Q Okay.  
14 (A discussion was held off the record.)  
15 (Hackett Deposition Exhibit 11 marked for  
16 identification.)  
17 BY MS. COTCA:  
18 Q You have had a chance to look at it?  
19 **A Sure. Sure.**  
20 Q Do you recognize this document?  
21 Have you seen a copy of it before?  
22 **A Yes.**

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1 Q Okay. Can you tell us what it is?  
2 **A This is -- these are two pages, I**  
3 **believe, of a bigger timeline of chronology of**  
4 **e-mail practices at the department, I believe.**  
5 Q The e-mail practices at the department,  
6 you're saying that's -- that's the subject matter  
7 of the main document, or just this document as  
8 Exhibit 11?  
9 MR. GARDNER: Objection. Form.  
10 **A I mean, I've seen a document -- I haven't**  
11 **seen just these two pages. I have seen a bigger**  
12 **document from -- and it dates from 2015. And**  
13 **it's -- and it's from 19 -- the 1990s to -- up to**  
14 **2015, about all of the e-mail collections of the**  
15 **former Secretaries.**  
16 Q Okay. Is this something that you helped  
17 prepare?  
18 **A I don't recall. I probably reviewed it,**  
19 **but I didn't prepare it.**  
20 Q Okay. Okay. That's all I had on that  
21 one.  
22 I'd like to switch focus a little bit --

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1 **A Okay.**  
2 Q -- to still same time frame, but to what  
3 was happening in this lawsuit during this time.  
4 **A Okay.**  
5 Q Do you -- do you recall when you were  
6 first informed of this lawsuit?  
7 **A It was probably when it came in, in 2014.**  
8 Q Okay. Do you recall when that would have  
9 been?  
10 **A I don't recall.**  
11 Q Okay.  
12 **A I just remember it -- it coming in. It**  
13 **was very similar to your other case relating to**  
14 **the UN and this issue.**  
15 Q And you're -- you're speaking about a  
16 previous FOIA request that requested pretty much  
17 identical records, but from a different office?  
18 **A Correct.**  
19 Q From the State Department. Correct?  
20 **A Correct. Yes.**  
21 MS. COTCA: Can you mark this as  
22 Exhibit...

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1 MR. GARDNER: Exhibit 12.  
2 MS. COTCA: Exhibit 12. Thank you.  
3 (Hackett Deposition Exhibit 12 marked for  
4 identification.)  
5 **A Okay.**  
6 Q Have you had a chance to review it?  
7 **A Yes.**  
8 Q Okay. And this appears to be an e-mail  
9 from Susan Weetman, to several people and another  
10 e-mail address, but also to you.  
11 Is that -- is that fair?  
12 **A Yes.**  
13 Q Okay. And this appears to be a note --  
14 her notifying you of this new Complaint that was  
15 filed in this case. Is that right?  
16 **A Yes.**  
17 Q Okay. Is this the first -- would this  
18 have been the first notice you would have received  
19 about this -- this case once it had been filed?  
20 **A Yes.**  
21 Q Okay. Who is Ms. Weetman, Susan Weetman?  
22 **A She works in the Litigation Division.**

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1 Q Of which department?  
2 **A Of IPS.**  
3 Q Okay. So that's the Litigation Division  
4 that you earlier discussed in saying once a  
5 Complaint is filed within IPS, it would go into  
6 a -- the Litigation Branch, I think you referred  
7 to as?  
8 **A Correct.**  
9 Q Okay. That's the same branch that we're  
10 talking about?  
11 **A It says down here at the bottom, Chief,**  
12 **Litigation and Appeals Branch.**  
13 Q Okay. Thank you.  
14 Do you know who Cristina is who's  
15 referenced in this e-mail?  
16 **A I -- Cristina was one of the analysts in**  
17 **the Litigation and Appeals Branches.**  
18 Q Okay. Then how about Monica?  
19 Where it says, Monica will be handling  
20 this case for IPS and Jamie for L/M, who is the  
21 "Monica"?  
22 **A I have forgotten Monica's last name. But**

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1 **she -- again, she was another analyst who was**  
2 **handling this case.**  
3 Q Okay. And then Jamie; do you know who  
4 that is?  
5 **A Jamie would be Jamie Bair.**  
6 Q Okay.  
7 **A An attorney in the Office of Legal**  
8 **Advisor.**  
9 Q Okay. Then once you received the  
10 notification about the Complaint having been  
11 filed, what did you do next with respect to the  
12 handling of this case?  
13 **A I mean, I -- I don't recall. I mean,**  
14 **I -- this was being handled by folks in the**  
15 **Litigation Branch, and...**  
16 Q But the Litigation Branch was still  
17 within your department. Correct?  
18 **A Correct.**  
19 Q Okay.  
20 **A But the Litigation Branch is in a --**  
21 **within another division, and that person worked**  
22 **for me.**



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**1 So there was a division, I forgot the**  
**2 name of the division, the chief – the Litigation**  
**3 and Appeals Branch was a piece of that division.**  
4 Q Okay. That was a bigger division, still  
5 within IPS?  
**6 A Correct.**  
7 Q Okay. So there were several layers?  
**8 A Correct.**  
9 Q Okay. You are aware, though, that a  
10 search had been conducted in the case once the  
11 Complaint was filed?  
**12 A In – I mean, I'm aware of the search. I**  
**13 mean, I signed a search Declaration in this case.**  
14 Q Okay.  
**15 A Now, the time frame when the searches**  
**16 were done, I can't recall.**  
17 Q Okay. And I don't want to trick you.  
18 So...  
**19 A Okay.**  
20 Q All right. I have a copy of your  
21 Declaration, if that would be helpful to you --  
**22 A Great.**

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1 Q -- in answering some of these questions.  
2 (Hackett Deposition Exhibit 13 marked for  
3 identification.)  
4 (A discussion was held off the record.)  
**5 A Okay.**  
6 Q You have had a chance to review it?  
**7 A Sure. Well, not all 40 pages. If...**  
8 Q Okay. Well, I just want to make sure  
9 that we're talk -- speaking about the same  
10 Declaration.  
11 Have you had a chance to review it to  
12 make sure this is your Declaration you submitted  
13 in this case?  
14 I believe it's on Page 14 of the  
15 document, your signature.  
**16 A It looks like my signature, yes.**  
17 Q Okay. Just very quickly, going to the  
18 previous exhibit, Ms. Weetman's e-mail.  
19 Do you know what the IPS-FOIA  
20 Litigation-DL in the To line, what that refers to?  
**21 A I believe that's just an Outlook e-mail**  
**22 group that, when something comes in, we share, you**

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**1 know, correspondence with.**  
2 Q Okay. And what did you do -- in  
3 preparing for this Declaration that's been marked  
4 as Exhibit 3, what did you do to gather the  
5 information in here?  
**6 A I mean, I personally did not gather any**  
**7 of the information. I mean, it was tasked out,**  
**8 like I explained, you know, before.**  
9 Q The search was tasked out?  
**10 A Yes.**  
11 Q Okay. But what I'm asking about is, with  
12 respect to compiling and to know what would go  
13 into your Declaration. How did you gather the  
14 information?  
15 So, for example, when you -- in  
16 preparation for this, did you seek out Monica -- I  
17 believe it is Monica Tillery, who was the analyst.  
18 Did you seek Ms. Tillery and speak to her  
19 as to what she did in the tasking process?  
**20 A Normally my process would be to speak to**  
**21 Ms. Weetman or her boss, Karen Finnegan Meyers.**  
**22 And they would walk me through, you know, the**

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**1 search.**  
**2 And sometimes I would work -- I would**  
**3 work with the attorneys, both the State attorneys**  
**4 and the Justice Department attorneys, on a**  
**5 specific case.**  
6 Q Okay. But how did you know -- so, okay,  
7 let's go to Paragraph 10, describing, On September  
8 9, 2014, a Management Analyst conducted a search  
9 of S/ES-S electronic record systems.  
10 Do you see that? That's --  
**11 A Yes.**  
12 Q Okay. So what did you do to collect that  
13 information?  
**14 A I mean, I -- I don't recall. It was**  
**15 probably -- I mean, the Litigation Division**  
**16 probably walked me through how they tasked out**  
**17 this case to the folks in the department, or to**  
**18 the Secretary's office; and -- and, you know --**  
**19 and told me what systems that they had searched.**  
20 Q Okay. Okay. So in Paragraph 10, then,  
21 is -- is that how you knew that a search had been  
22 conducted on September 9, 2014?

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1 **A Yes.**  
2 Q Okay. Who is the Management Analyst  
3 referenced in Paragraph 10?  
4 **A I don't recall.**  
5 Q Would that have been Mr. Finney, Clarence  
6 Finney?  
7 **A It may have been Clarence, or it may have**  
8 **been the other person that worked with Clarence.**  
9 **I don't want to speculate. It might have been**  
10 **Jonathan -- I have forgotten his last name.**  
11 Q Jonathan Wasser?  
12 **A It may have been, but I don't know.**  
13 Q Okay.  
14 **A I don't recall.**  
15 Q Okay. In Paragraph 11 you stated that,  
16 On September 23, in furtherance of this process --  
17 which was responding to the FOIA request -- the  
18 Secretary's office also searched state.gov e-mail  
19 accounts of three individuals -- and they are  
20 Cheryl Mills, Jacob Sullivan, and Huma Abedin --  
21 within the Office of the Secretary.  
22 Do you see that?

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1 **A Yes.**  
2 Q Okay. Why were the state.gov e-mail  
3 accounts of these individuals searched?  
4 **A Potentially they had Benghazi-related**  
5 **records relating -- might be responsive to the**  
6 **request.**  
7 Q Okay. So their e-mails could potentially  
8 be responsive to Judicial Watch's FOIA request.  
9 Right?  
10 **A Correct.**  
11 Q Okay. Did you at that point inquire  
12 whether e-mails were searched for Secretary  
13 Clinton's e-mail account that was disclosed in the  
14 Gawker case?  
15 And I'm speaking as to the time frame in  
16 September of 2013.  
17 **A No.**  
18 Q 2014, excuse me.  
19 MR. GARDNER: Do me a favor. Can you  
20 just reask the question, so we have a clear  
21 question and answer.  
22 MS. COTCA: Sure.

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1 Q In September of 2014 did you inquire  
2 whether e-mails were searched for e-mails of  
3 Secretary Clinton from the e-mail account  
4 disclosed in the Gawker case in response to this  
5 case?  
6 **A No.**  
7 Q Why not?  
8 **A Again, to me, or to IPS, it was only --**  
9 **you know, it was only an e-mail address.**  
10 Q Okay.  
11 **A We knew nothing behind it; you know,**  
12 **whether it was personal or -- we had no knowledge**  
13 **that she was using it for government purposes.**  
14 Q Well, it appeared in one responsive  
15 record, at least, in the Gawker case. Right?  
16 **A I would have to go back and look at that.**  
17 **It appeared that somebody had copied her**  
18 **on an e-mail, yeah.**  
19 Q Okay. When was the search concluded in  
20 this case? Let me rephrase that.  
21 When was the initial search concluded in  
22 this case that's referenced in Paragraph 10 and

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1 11?  
2 **A I think it says in Paragraph 14 that**  
3 **searches were completed on September 23, 2014.**  
4 Q Okay. And then when were the responsive  
5 records produced that resulted from that search?  
6 **A It looks like November 12, 2014.**  
7 Q Okay. During this time frame between  
8 September and November 2014, did you make any  
9 request that Secretary Clinton's e-mails that were  
10 going to be provided to the Hill that were  
11 responsive or related to Benghazi should be  
12 searched in this case?  
13 **A Can you repeat the question again.**  
14 Q Did you make any requests -- once you  
15 found out that there were e-mails from Secretary  
16 Clinton that related to Benghazi, did you request  
17 that those e-mails be searched in response to this  
18 request?  
19 MR. GARDNER: Objection, foundation.  
20 Objection, form.  
21 **A I'm a little bit confused. Because**  
22 **September 2014 there was a congressional document**

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1 **production. And I -- I never saw the e-mails that**  
2 **went as part of that document production, and only**  
3 **learned of them after the fact.**  
4 **I knew -- I knew that there were**  
5 **Hillary-Clinton-related items that were going to**  
6 **the Hill. I -- two or three, what's called, call**  
7 **sheets of her calls to foreign leaders after**  
8 **Benghazi. I never saw any e-mails of -- that went**  
9 **to the Hill. So I didn't have personal knowledge**  
10 **of that.**  
11 **But these -- to me, these were two kind**  
12 **of separate things, separate issues.**  
13 Q Okay. So let's backtrack a little bit.  
14 I believe your testimony earlier today  
15 was, in August 2014 you learned that some of her  
16 documents would be going to the Hill about  
17 Benghazi, to the Benghazi -- well, you didn't  
18 identify which committee on the Hill -- including  
19 call sheets. But some would include e-mails from  
20 Secretary Clinton?  
21 MR. GARDNER: Objection. Form.  
22 **A But I never -- I mean, I don't think I**

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1 **said -- or to this day I don't know what those**  
2 **e-mails were.**  
3 Q Fair enough.  
4 **A Yeah.**  
5 Q I understand you never saw them.  
6 But you were made aware that there were  
7 e-mails from Secretary Clinton about Benghazi that  
8 were being sent to the Hill in August of 2014.  
9 MR. GARDNER: Objection. Form.  
10 Q Is that fair?  
11 MR. GARDNER: Sorry. Objection. Form.  
12 **A I -- my recollection and -- actually, and**  
13 **this is a discussion with one of the department**  
14 **attorneys --**  
15 MR. GARDNER: Well, then, hold on.  
16 MS. COTCA: Without divulging --  
17 **A -- so --**  
18 MR. GARDNER: To the extent that you can  
19 answer counsel's question without divulging  
20 privileged information, you may do so. Otherwise,  
21 I would instruct you not to answer.  
22 And if we need to take a break to figure

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1 that out, happy to do that.  
2 THE WITNESS: Maybe -- maybe we should  
3 take a break.  
4 MR. GARDNER: We have been going for  
5 about an hour anyway. Why don't we take a break.  
6 MS. COTCA: Okay.  
7 VIDEO SPECIALIST: We are going off the  
8 record at 14:26.  
9 (A recess was taken.)  
10 VIDEO SPECIALIST: We are back on the  
11 record at 14:50.  
12 MR. GARDNER: Thank you. Counsel, while  
13 we were on the break, Mr. Hackett informed me that  
14 he had a correction or clarification to the  
15 record.  
16 So I just ask Mr. Hackett to go forward  
17 and do that.  
18 THE WITNESS: Thank you.  
19 So going back to the congressional  
20 production that was made August, September 2014.  
21 My recollection is, one of the attorneys  
22 approached me. And I think he was giving me a

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1 heads-up that five documents were going to be  
2 released to the Hill, and they related to Hillary  
3 Clinton. And two or three of them were call  
4 sheets, but I never knew what the others were.  
5 And I assumed they were e-mails, only  
6 because of these later flurry of activity from  
7 Public Affairs, you know, that I think I had told  
8 you about before. That -- where they were asking  
9 me that they thought there was going to be press  
10 about Hillary Clinton's e-mails.  
11 BY MS. COTCA:  
12 Q Did you ask -- I mean, did you ask the  
13 attorney that gave you the heads-up why he was  
14 alerting you to this information?  
15 **A I think only because he knew that there**  
16 **was going to be publicity involved relating to**  
17 **this.**  
18 **And I -- I -- at that time I think I**  
19 **actually, my recollection, said to him, Well, why**  
20 **don't we just go ask Hillary Clinton for, you**  
21 **know, her e-mails. And I -- and I don't remember**  
22 **his response.**

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1 Q That was when, in August or September  
2 time frame?  
3 A I believe August --  
4 Q Okay.  
5 A -- that that all happened.  
6 But I think he was alerting me more as,  
7 you know, kind of a PR heads-up that this was  
8 about to happen.  
9 Q Who was the attorney who you had this  
10 conversation with?  
11 A Jamie Bair.  
12 Q And Mr. Bair was, I believe, identified  
13 as the attorney on this case in the document I  
14 showed you earlier?  
15 A Yes, I think so.  
16 Q Okay. Did that conversation or the  
17 information provided to you at that time raise any  
18 red flags or any concerns for you in regards to  
19 this FOIA request?  
20 A I don't recall. We -- we were very  
21 careful in the -- to keep the congressional  
22 searches separate from, obviously, the FOIA

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1 searches. Because they were two different, you  
2 know -- two different paths, and different people  
3 were working on them at -- at times.  
4 And I don't -- I don't think we had a  
5 conversation about this. I -- the -- and I -- I  
6 don't even remember what production this was to  
7 the Hill or what it related to.  
8 Because I know the earlier productions to  
9 the Hill under Congressman Hice's committee  
10 related to Libya, and it was much broader than  
11 just the Benghazi attack or the Benghazi talking  
12 points.  
13 So I -- you know, I don't -- I don't  
14 remember the details or we had a discussion about  
15 this case specifically as it related to  
16 congressional productions.  
17 Q How about FOIA cases that related to  
18 Benghazi, not necessarily just this case, as it  
19 related to the production that was being made to  
20 the Hill?  
21 A I -- we did have discussions about, if we  
22 were producing documents to the Hill, and they

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1 were going to be released by the committees, we  
2 wanted to get them out to our FOIA requestors as  
3 well.  
4 Or if -- you know, or if they were going  
5 to be released in litigation, that our  
6 non-litigation FOIA requestors would, you know,  
7 have access to these documents, as well.  
8 I mean, that's why during my tenure we  
9 started posting a lot more material to the  
10 department's website, even under the case -- the  
11 case numbers.  
12 But we did have discussions about the  
13 productions; and in turn, if Congress was going to  
14 go ahead and release material, we needed to go and  
15 release that material, if it was responsive, to  
16 these FOIA requestors.  
17 Q Okay. So do you know if that material  
18 and those records were searched in September of  
19 2014 in response to this FOIA request?  
20 A I -- I don't know.  
21 And, again, because it -- you mean the  
22 five documents, or you mean just general...

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1 Q What was produced to the Benghazi Select  
2 Committee in August of 2014, if that was searched  
3 in response to --  
4 A That, I don't --  
5 Q -- this FOIA request in September of  
6 2014?  
7 A I -- I couldn't tell you. I don't know.  
8 Q Okay. What about the five documents that  
9 you and Mr. Bair discussed in September of 2014?  
10 A I don't know where they -- what they were  
11 searched or ended up, you know. I don't know --  
12 even know where they came from.  
13 See, that's part of the issue, too. I  
14 don't know what record system they came from.  
15 Q Okay. Well, as the officer who's  
16 responsible for records management, wouldn't that  
17 be something that you would want to find out at  
18 that point?  
19 MR. GARDNER: Objection. Form.  
20 A I would if, you know, I had more time.  
21 When I left the department, we had a  
22 hundred cases in litigation. So -- and, plus, we

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1 were, you know, wrapping up monthly productions of  
2 Hillary Clinton's e-mails under the Leopold case.  
3 **So I understand what you're saying. But**  
4 **it was just, you know, too much.**  
5 Q So just to clarify, the time frame I'm at  
6 is September 2014, when you had this discussion  
7 with Mr. Bair. I believe the Leopold production  
8 occurred -- didn't start happening until mid 2015  
9 and 2016.  
10 So it would be the same question, but in  
11 September of 2014.  
12 **A And I think it's -- then it's -- I would**  
13 **say that as the Director, I mean, my**  
14 **responsibilities were not only to the FOIA**  
15 **department. It was -- you know, I had, you know,**  
16 **other major programs that I was, you know,**  
17 **supervising. And this was one of many.**  
18 **I mean, he was just giving me a heads-up**  
19 **that this was, you know, happening. And I was at**  
20 **that period pulled in multiple directions.**  
21 Q Okay. And I think you answered this, but  
22 I want to make sure.

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1 Do you recall how Mr. Bair responded when  
2 you asked him, why don't we just ask Mrs. --  
3 Secretary Clinton for her e-mails?  
4 **A I don't recall.**  
5 Q Okay. Did you have similar  
6 conversations, about asking Secretary Clinton for  
7 her e-mails, with anyone else during that time  
8 frame, from August 2014 through November 2014?  
9 **A Yes.**  
10 Q Okay. Who?  
11 **A I discussed it with Peggy Grafeld.**  
12 Q Okay. When did you have those  
13 discussions with Ms. Grafeld?  
14 **A I -- probably around the same time. I**  
15 **mean, I think during that period up to the time**  
16 **the Secretary's letters --**  
17 Q Okay.  
18 **A -- the letters went out to the former**  
19 **Secretaries, I think it was kind of a reoccurring**  
20 **conversation that this is something we needed to**  
21 **do.**  
22 **So I would mention something to Peggy,**

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1 **and I was hoping that Peggy was mentioning it to**  
2 **other people.**  
3 Q How did Ms. Grafeld respond when you had  
4 those conversations with her?  
5 **A My recollection was that she agreed with**  
6 **me. But I didn't get a -- I did not know if she**  
7 **was taking it to somebody, you know, in upper**  
8 **management or not.**  
9 Q Okay. In light of these discussions and  
10 issues about Secretary Clinton's e-mails during  
11 this time frame, did you make any directives and  
12 changes with respect to how IPS should respond in  
13 litigation or to FOIA requestors relevant to  
14 Secretary Clinton's e-mails?  
15 MR. GARDNER: Objection. Form.  
16 **A I don't recall.**  
17 Q Okay. Do you recall anybody else making  
18 any changes in the way they were responding to  
19 FOIA requestors in litigation, or before  
20 litigation, as relevant to Secretary Clinton's  
21 e-mails, in light of these discussions and  
22 concerns about Secretary Clinton's e-mails?

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1 MR. GARDNER: Objection. Form.  
2 **A No. Well, I -- no, I don't recall**  
3 **anybody else.**  
4 Q Okay. Is Ms. Grafeld the only other  
5 person that you raised this concern to during this  
6 time frame?  
7 **A Yes. She was my direct supervisor.**  
8 Q Okay.  
9 MS. COTCA: It's already been marked.  
10 (Hackett Deposition Exhibit 14 marked for  
11 identification.)  
12 Q I will show you what's been marked as  
13 Exhibit 14.  
14 **A Okay.**  
15 Q Have you had a chance to review it?  
16 **A Yes.**  
17 Q Okay. It's an e-mail from State  
18 Department Attorney Robert Prince, to me,  
19 actually, dated December 5, 2014, at 10:24 p.m.,  
20 with an attachment as a draft Vaughn.  
21 Do you see that?  
22 **A Yes.**

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1 Q Okay. Just in the second paragraph of  
2 the e-mail --  
3 **A Excuse me.**  
4 Q Do you -- do you need some water? We can  
5 get you more water. Okay.  
6 In the second paragraph Mr. Prince wrote,  
7 This draft Vaughn is provided for purposes of  
8 settlement negotiations only, and then he  
9 continues on.  
10 Do you see that?  
11 **A Yes.**  
12 Q Okay. Are you familiar with what a draft  
13 Vaughn is?  
14 **A Yes.**  
15 Q Okay. Can you explain what that is?  
16 **A My recollection, the Vaughn indexes are**  
17 **documents that -- where the withholdings are**  
18 **explained, a list of them. Sometimes Excel**  
19 **spreadsheet.**  
20 **Sometimes just some sort of chart listing**  
21 **the document, if we can, the To and From and the**  
22 **date, and in general terms the subject and what**

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1 **withholdings are going to be made of the**  
2 **documents.**  
3 Q Okay. Did you assist in any way the  
4 preparation of this draft Vaughn index?  
5 **A I don't recall.**  
6 Q Okay.  
7 **A I don't think so.**  
8 Q Is that something you would normally be  
9 involved in doing back in December of 2014?  
10 **A Not a Vaughn index, no.**  
11 Q Okay. Would you be in communications  
12 with the DOJ attorney handling the case, just  
13 generally as to the status of the case, when draft  
14 Vaughns are provided?  
15 **A It might have been the DOJ attorney or**  
16 **the State attorney might have told me that this**  
17 **was happening, but that's about it.**  
18 Q Okay.  
19 (Hackett Deposition Exhibit 15 marked for  
20 identification.)  
21 Q Give you a chance to review that. Let me  
22 know once you have had a chance to.

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1 **A Okay.**  
2 Q Okay. What exhibit is this? I'm sorry.  
3 **A Exhibit 15.**  
4 MR. GARDNER: Exhibit 15.  
5 Q Thank you. It is -- Exhibit 15 is a  
6 Joint Status Report that was filed in this case in  
7 December -- on December 31, 2014.  
8 Is -- do you recall whether you assisted  
9 in any way in the preparation or providing  
10 information to your attorneys to prepare this  
11 Joint Status Report?  
12 **A I don't recall.**  
13 Q Okay. Would you back in December 2014 be  
14 involved in communicating with either DOJ attorney  
15 or the State's attorney in preparation for a court  
16 filing on a FOIA case?  
17 **A Normally not a Joint Status Report. But**  
18 **it might -- it was more than likely mentioned to**  
19 **me in -- we have a weekly -- weekly meeting with**  
20 **our attorneys.**  
21 Q Okay.  
22 **A With our -- excuse me, with our State**

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1 **attorneys, you know.**  
2 Q Right. When you say, "State attorneys,"  
3 meaning internal attorneys within the State  
4 Department?  
5 **A Correct.**  
6 Q Okay. And those would be within the  
7 Office of Legal Advisor or the...  
8 **A Office of Legal Advisor attorneys who**  
9 **were assigned to the office -- the Under Secretary**  
10 **of Management, who handled our FOIA cases.**  
11 Q Okay. During the weekly meetings that  
12 you had in December 2014, were there discussions  
13 about the return of Secretary Clinton's e-mails?  
14 MR. GARDNER: I think you can answer that  
15 question with a yes or no, and then let counsel  
16 ask a further -- a followup question. Because I  
17 think the next question may call for privilege.  
18 **A I -- I don't recall.**  
19 Q What were the meetings -- the weekly  
20 meetings, did they have a name or...  
21 **A The weekly meetings.**  
22 Q Okay. I think I saw in one document

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1 where it was referred to as IPS Leadership  
2 Meeting.  
3 Is that a different type of meeting?  
4 **A That might be a different type of**  
5 **meeting.**  
6 Q Okay. These meetings that are weekly,  
7 who normally attended them?  
8 **A In my tenure, early on it was myself and**  
9 **the Director and the attorneys from the Under**  
10 **Secretary of Management – excuse me, Office of**  
11 **Legal Advisor, who were assigned to the Under**  
12 **Secretary of Management, who handled FOIA**  
13 **litigation; and the head of the division that**  
14 **housed the – the Litigation Branch.**  
15 Then the meeting kind of morphed into a  
16 much bigger meeting, where we included – maybe  
17 I'm – my recollection of this – the meeting also  
18 included the analysts from the Litigation Branch.  
19 And – and we went over just a status of all the  
20 cases.  
21 Q Okay. When did these meetings become  
22 broader to include the analysts?

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1 **A I – let me correct.**  
2 **I think the analysts were always there.**  
3 **The – the meetings became broader as the**  
4 **department got more litigation. And Office of**  
5 **Legal Advisor kind of spread the case management**  
6 **out to the whole portfolio of attorneys in the**  
7 **department.**  
8 Q Okay. So focusing in on December of  
9 2014, if you can, for these weekly meetings.  
10 You said that the Director, but I don't  
11 believe you identified who -- is that -- are you  
12 referring to yourself as the Director of IPS?  
13 **A The Director of IPS –**  
14 Q Okay.  
15 **A – would be in that meeting.**  
16 Q Okay.  
17 **A And the Acting Deputy Director, if there**  
18 **was one in December 2014.**  
19 Q Was there an Acting Deputy Director?  
20 **A That, I can't recall.**  
21 Q Okay. You also mentioned attorneys.  
22 Was Mr. Bair one of the attorneys that

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1 would have attended these meetings?  
2 **A Yes.**  
3 Q Okay. Was there any discussion during  
4 these meetings in December of 2014 as to the  
5 impact the return of Secretary Clinton's records  
6 would have in this case?  
7 MR. GARDNER: You can answer that  
8 question with a yes or a no, or I don't recall,  
9 and then we can proceed from there.  
10 **A I don't recall.**  
11 Q Were there discussions during those  
12 meetings in December of 2014 as to how the return  
13 of Secretary Clinton's records or e-mails in  
14 December would impact FOIA cases in general?  
15 MR. GARDNER: Same instruction.  
16 You can answer that with a yes, no, or I  
17 don't recall, and we'll take it from there.  
18 **A No, I don't recall. You know, I'm -- you**  
19 **know...**  
20 MR. GARDNER: Well, you can let her ask  
21 another question.  
22 THE WITNESS: Okay.

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1 Q Did you raise the issue in any of these  
2 meetings in December of 2014?  
3 MR. GARDNER: You can still answer that  
4 question with a yes, no, or I don't recall.  
5 **A No.**  
6 Q You did not raise it?  
7 **A I don't remember, you know, having a**  
8 **discussion about it. So, I'll leave it at that.**  
9 Q Okay. During these meetings, were --  
10 would there be any notes taken?  
11 **A Individuals might have taken notes, but I**  
12 **don't – there was – there was not a, you know,**  
13 **department note-taker – or IPS note-taker in the**  
14 **room.**  
15 Q Okay. Did you have the practice of  
16 taking notes during these meetings?  
17 **A I think there was a – the Litigation**  
18 **Branch might have had an agenda for the meeting,**  
19 **listing the cases that we were going to go over.**  
20 **And I might scratched – you know, put scratches,**  
21 **you know, notes next to certain cases.**  
22 Q Okay. And would this agenda be

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1 circulated to the individuals attending the  
2 meeting prior to the meeting?  
3 **A Yes.**  
4 Q And the agenda would come from the Office  
5 of Legal Advisor. Is that right? Or from the  
6 attorneys attending the meeting?  
7 **A I think an agenda came in cooperation**  
8 **with the Office of Legal Advisor. But my**  
9 **recollection is it was generated by IPS, by the**  
10 **Litigation Branch.**  
11 Q Okay. Thank you for that clarification.  
12 Okay.  
13 (Hackett Deposition Exhibit 16 marked for  
14 identification.)  
15 Q Mr. Hackett, if you can look at Exhibit  
16 16 and let me know once you are finished reviewing  
17 it.  
18 **A Okay.**  
19 Q Have you had a chance to review it?  
20 **A Yes.**  
21 Q Okay. I want to refer you to Paragraph 3  
22 at the top of Page 2. And for the record, this is

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1 a Joint Status Report that was filed in this case  
2 on February 2, 2015.  
3 Do you agree that's a fair description?  
4 **A Yes.**  
5 Q Okay. In Paragraph 3 it states, In the  
6 course of preparing additional information to  
7 provide to plaintiff for purposes of settlement  
8 discussions, defendant had discovered that  
9 additional searches for documents potentially  
10 responsive to the FOIA must be conducted.  
11 Do you see that?  
12 **A Yes.**  
13 Q Okay. Do you know when defendant -- and  
14 that's the State Department -- discovered that  
15 additional searches needed to be -- to be done?  
16 **A I don't -- I don't recall. I don't**  
17 **recall.**  
18 Q Okay. Still on the same sentence. Do --  
19 are -- do the additional searches, does that refer  
20 to searching of Secretary Clinton's e-mails  
21 returned to the State Department?  
22 **A I believe that would be correct, yes.**

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1 Q Did you -- strike that.  
2 Were you involved in assisting the  
3 preparation of this status report prior to it  
4 being filed?  
5 **A I don't recall, no.**  
6 Q Would it just be fair to say that you  
7 would be involved to the extent of the weekly  
8 meetings, just as you had with the other Joint  
9 Status Report?  
10 MR. GARDNER: Objection. Form.  
11 **A I was probably told about it, but in a**  
12 **weekly meeting or in another meeting. But I**  
13 **just -- I can't remember when I was told.**  
14 Q Okay. Thank you. We're done with that  
15 exhibit.  
16 Mr. Hackett, do you know if the searches  
17 that were conducted in September of 2014 in this  
18 case, if it located any records that would have  
19 shown Secretary Clinton's e-mail account?  
20 MR. GARDNER: Objection. Form.  
21 **A I don't recall. I -- I would just say**  
22 **if -- if somebody had found something like that, I**

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1 **think they would have brought it to my attention.**  
2 **And I just don't recall that happening.**  
3 Q Okay. To clarify, during the search  
4 process and the review of the records, of  
5 potentially responsive records, is it the analyst  
6 within the Litigation Branch who would do the  
7 actual review of the entire volume of records that  
8 resulted from the initial search?  
9 **A In most cases, yes.**  
10 Q Okay. I'll refer you to your  
11 Declaration, Exhibit -- I believe it's Exhibit 13,  
12 Paragraph 20.  
13 Well, actually, 18 through 20 -- 21. And  
14 I believe it's -- it begins on Page 8 of the  
15 Declaration.  
16 **A Have -- excuse me. What paragraph is it?**  
17 MR. GARDNER: 18 through 21.  
18 Q I believe the topic begins on Paragraph  
19 18.  
20 **A Okay.**  
21 Q Okay. It appears that -- I mean, these  
22 paragraphs talk about some additional records that



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1 were found responsive in this case.  
2 Can you explain what -- what this refers  
3 to?  
4 MR. GARDNER: Objection. Form.  
5 **A It looks like in 18 that -- this relates**  
6 **to that -- some documents that were outside of the**  
7 **department's control, where we asked former**  
8 **employees to -- Ms. Mills, Mr. Sullivan, Ms.**  
9 **Abedin, to send in material that was in personal**  
10 **accounts that related to the department's -- or**  
11 **were department records, or records relating to**  
12 **their official capacities.**  
13 Q And what about those records?  
14 I mean, how did that relate to this case?  
15 **A Well, my recollection is that these are**  
16 **three people who more than likely might have had**  
17 **responsive records relating to this case because**  
18 **of their proximity to the former Secretary.**  
19 Q Okay.  
20 **A Her -- her aides.**  
21 Q And was there -- were there additional  
22 records found, e-mails found, that were responsive

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1 to this FOIA request as a result of the search of  
2 those records?  
3 **A Yes.**  
4 Q Okay. Did the State Department produce  
5 those records at the time that you submitted your  
6 Declaration?  
7 **A I -- I don't see the --**  
8 Q I don't want to trick you. I think it's  
9 actually explained in -- towards the end of  
10 Paragraph 20.  
11 **A At the end of Paragraph 20?**  
12 Q Yes.  
13 MR. GARDNER: I think she's referring to  
14 right the end of that paragraph. So there.  
15 That's what she's referring to.  
16 **A So these were withheld, it looks like.**  
17 Q Okay. Were they withheld in full or in  
18 part?  
19 **A Withheld in full.**  
20 Q Okay. And what was the basis for the  
21 withholding?  
22 **A It says here, FOIA Exemption 5.**

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1 Q And what's -- for the record, what's FOIA  
2 Exemption 5?  
3 **A Well, I don't know which part of 5 that,**  
4 **you know, they took here. But it -- deliberative**  
5 **process privilege.**  
6 Q Which may also include attorney-client  
7 and work product?  
8 **A Yes.**  
9 Q Okay. Did you have any discussions at  
10 the time, around the time of your Declaration,  
11 whether these documents should be produced in part  
12 with redactions, as opposed to withheld in full?  
13 MR. GARDNER: Objection. Beyond the  
14 scope of the court's permitted discovery with  
15 respect to Mr. Hackett in this case.  
16 He has been allowed to testify as to two  
17 issues, the reasonableness of the search and his  
18 understanding of the circumstances behind the two  
19 status records.  
20 MS. COTCA: Okay.  
21 (Hackett Deposition Exhibit 17 marked for  
22 identification.)

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1 Q If you can take a look at Exhibit 17.  
2 **A Okay.**  
3 Q Okay. Thank you. And Exhibit 17 is  
4 supplemental production that the State Department  
5 made to Judicial Watch in this case on April 18,  
6 2016.  
7 Were you still the Director of IPS at  
8 that time?  
9 **A I left on March the 18th, 2016.**  
10 Q Okay. The attached -- I mean, this  
11 exhibit includes only a part of what was produced  
12 on April 18, 2016.  
13 I just want to ask you about the  
14 production that relates to e-mail string between  
15 Cheryl Mills, Jacob Sullivan, Philippe Reines, and  
16 Secretary Clinton, on September 29, 2012.  
17 Do you know if any portion of this  
18 document was located as part of the initial search  
19 that was conducted by the State Department in  
20 September of 2014?  
21 **A I don't know. I don't recall.**  
22 Q Okay. Just for the record, it looks like

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1 Cheryl Mills -- Ms. Mills was Secretary Clinton's  
2 former Chief of Staff. Correct?  
3 **A Correct. But then she was Special**  
4 **Advisor to Haiti, and then she also was Counselor**  
5 **at times. So it depends what time period we're**  
6 **talking about.**  
7 Q Okay. Do you see at the bottom of the  
8 first page of this document where it says, On  
9 Saturday, September 29, 2012, at 11:49?  
10 **A Yes.**  
11 Q Okay. And that appears to be Ms. Mills'  
12 state.gov e-mail address. Is that correct?  
13 **A Yes.**  
14 Q Okay. Do you know on the last page of  
15 the document, where it says, "Page Denied," what  
16 does that mean?  
17 **A I -- you know, I don't know how they're**  
18 **using it here. Because they've also put a B5.**  
19 **Some -- I think different agencies use Page Denied**  
20 **in different ways.**  
21 **But I don't know how they're using it**  
22 **here, so I can't speak to it.**

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1 Q Okay. Was there -- when you were the  
2 Director of IPS, was there a normal -- or a  
3 process in place for when notation Page Denied is  
4 used, or was used?  
5 **A I've seen it used two ways, because I've**  
6 **worked at different agencies.**  
7 **But so I can't speak to -- it looks like**  
8 **the entire page is denied, it is saying exactly**  
9 **what it means, based on a B5 exemption.**  
10 Q Okay.  
11 **A But, again, this was produced after I**  
12 **departed, so I don't know.**  
13 Q And I don't want you to guess.  
14 **A Yeah.**  
15 Q I just wanted to know if there was normal  
16 practice in place when you were the Director at  
17 IPS. Okay. Do you know if after -- I'm sorry.  
18 Strike that.  
19 Prior to you leaving the State Department  
20 in March of 2016, do you know if all of the  
21 records that were returned by Secretary -- not by  
22 Secretary Clinton -- by Cheryl Mills, Huma Abedin,

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1 and Jacob Sullivan had been searched in this case?  
2 **A I don't recall.**  
3 Q Okay.  
4 (Hackett Deposition Exhibit 18 marked for  
5 identification.)  
6 Q Mr. Hackett, if you can look at what's  
7 been marked as Exhibit 18, and let me know once  
8 you have had a chance to review it.  
9 **A Okay.**  
10 Q Have you had a chance to review it?  
11 **A Uh-huh.**  
12 Q Okay. Do you know what this document is,  
13 or what it appears to be?  
14 **A It appears to be, what I remember, a Case**  
15 **Comments sheet for a specific FOIA case.**  
16 Q Okay. Can you -- what is a Case Comments  
17 sheet?  
18 **A It's for the analyst to track all of**  
19 **the -- keep track of all the tasking and other**  
20 **issues that are going on with the case.**  
21 Q Okay. So is -- is it normally completed  
22 by analysts who are tasked with searching on a

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1 particular -- on the particular case?  
2 **A Yes.**  
3 Q Okay. Would you ever make any notations  
4 yourself on this comment sheet?  
5 **A No.**  
6 Q Let me ask you, on the first page of the  
7 document, in the second entry, where it says,  
8 After discussing the case.  
9 Do you see that?  
10 **A Yes.**  
11 Q It says, After discussing the case in the  
12 bi-weekly Benghazi meeting -- and then in  
13 parentheses it's 7/7/14, July 7, '14 -- led by J.  
14 Hackett, it was agreed that SESCR should be  
15 tasked.  
16 J. Hackett, is that you?  
17 **A Yes.**  
18 Q What was SESCR? What does that refer to?  
19 **A The Secretary's office. I think**  
20 **specifically the records part of the Secretary's**  
21 **office.**  
22 Q Okay. What do you mean, "specifically

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1 the records part of the Secretary's office"?

2 **A Mr. Finney's.**

3 Q Okay. What is the bi-weekly Benghazi

4 meeting?

5 **A I may have mentioned this earlier. This**

6 **is where we're -- with all the congressional**

7 **production that is going out the door, we have all**

8 **of these FOIA requests, nonlitigation FOIA**

9 **requests -- or, let me back up.**

10 **With all the litigation that is going out**

11 **the door that we are producing, giving production**

12 **to requestors in litigation, we wanted to use that**

13 **material in our nonFOIA -- excuse me,**

14 **nonlitigation FOIA requests.**

15 **So we are -- because we had a lot. When**

16 **I arrived over 60, I think, in my memory, FOIA**

17 **requests, nonlitigation FOIA requests, relating to**

18 **Benghazi, the whole scope of Benghazi issue.**

19 **So we wanted to use this material we were**

20 **producing in litigation to fulfill, if it was**

21 **responsive, some of these other parallel**

22 **nonlitigation FOIA requests.**

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1 Q Okay. And are these meetings that you

2 led?

3 **A Yes.**

4 Q Okay. And that's for every meeting, not

5 just this particular one that's note -- noted in

6 the -- in the document?

7 **A Yes.**

8 Q Okay.

9 **A In addition to -- just to give you the --**

10 **this was a way of trying to reduce our FOIA**

11 **backlog. So we had a similar meeting relating to**

12 **the Keystone Pipeline, numerous FOIA requests**

13 **relating to the Keystone Pipeline.**

14 **There was parallel litigation. And we**

15 **wanted to use what was in -- we were producing in**

16 **litigation to close some of these nonlitigation**

17 **FOIA requests.**

18 Q Okay. And who would attend these

19 meetings?

20 **A The FOIA analysts who were handling, and**

21 **Pat Scholl the head of our -- or Pat's Deputies**

22 **and his branch chiefs. Basically, the FOIA shop**

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1 **of -- of IPS.**

2 Q Okay. And Pat Scholl, again, remind me,

3 what was his title or position or...

4 **A I can't remember his title. But Pat**

5 **Scholl was really the head of all of the FOIA --**

6 **nonlitigation FOIA processing --**

7 Q Okay.

8 **A -- in IPS.**

9 Q So would Mr. Scholl attend the meetings,

10 as well?

11 **A Sometimes Pat would attend himself, or he**

12 **would send his Deputies.**

13 Q Okay. Were there any -- did these

14 meetings ever discuss the productions that were

15 being made to Congress about Benghazi?

16 **A Only if a production had been made to**

17 **Congress, and Congress then in turn released the**

18 **documents to the public.**

19 Q So it would only be after the fact, as

20 opposed to before?

21 **A It would only be after the fact.**

22 Q Okay. Do you recall any such production,

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1 when that would have been brought up during these

2 meetings, that was made to Congress about

3 Benghazi?

4 **A No, I don't recall.**

5 Q When you left the State Department in

6 March 2016, were these meetings still being held

7 on a biweekly basis?

8 **A I -- I don't think so, no.**

9 Q Do you remember when these biweekly

10 meetings began?

11 **A I believe they began some time in 2013,**

12 **when I was Deputy Director.**

13 Q So after March 2013?

14 **A After April 2013.**

15 Q April, excuse me. I'm sorry.

16 **A Yeah.**

17 Q Uh-huh. Okay. Okay. Were there any

18 agendas sent out in preparation for these

19 meetings?

20 **A My recollection is that -- I think that**

21 **the FOIA division would come with a list of cases**

22 **relating to a specific subject.**

<p>169</p> <p>1       <b>So in the past they hadn't done any of</b> 2 <b>this, they -- you know, grouping cases by subject,</b> 3 <b>trying to close similar cases. And so there was</b> 4 <b>a -- a list of all the Libya/Benghazi cases, and</b> 5 <b>there was a list of Keystone Pipeline cases. And</b> 6 <b>we just went through them case by case and grouped</b> 7 <b>all the similar cases together.</b> 8     Q   Right. Right. And that's what became to 9 be known, or what you're referring to, as the 10 Benghazi meeting, the biweekly Benghazi meeting. 11 Correct? 12    A   <b>Yes.</b> 13    Q   Right. 14    A   <b>Yes.</b> 15    Q   So in advance of those meetings, would 16 there be an agenda or any memorandum that would be 17 circulated to prepare the individuals attending 18 the meeting? 19    A   <b>I just remember prior to the meeting just</b> 20 <b>a case list, an open case list might be</b> 21 <b>circulated.</b> 22    Q   Okay. How about, were any notes taken</p>	<p>171</p> <p>1 probably a good time to take a short break. 2       MR. GARDNER: Sure. 3       VIDEO SPECIALIST: We are going off the 4 record at 15:48. 5       (A recess was taken.) 6       (Hackett Deposition Exhibit 19 marked for 7 identification.) 8       VIDEO SPECIALIST: We are back on the 9 record at 15:58. 10    BY MS. COTCA: 11    Q   Mr. Hackett, I have put before you what's 12 been marked as Exhibit 19. And there are two 13 e-mails, actually, but I attached them as one. 14       MR. GARDNER: Okay. 15       MS. COTCA: So just if you can just 16 collate. 17       MR. GARDNER: Which? Which do you want 18 to put on the top? 19       MS. COTCA: The first, the single sheet 20 should go on top -- 21       MR. GARDNER: Is the top? 22       MS. COTCA: -- of the multiple page</p>
<p>170</p> <p>1 during these meetings? 2    A   <b>I -- I don't recall. Maybe individual</b> 3 <b>analysts might have taken notes, but I -- we did</b> 4 <b>not have a note-taker, no.</b> 5    Q   Okay. Did you have the practice of 6 taking any notes during these meetings? 7    A   <b>I don't recall. I might have taken</b> 8 <b>scratch notes on a list of cases.</b> 9    Q   Okay. Would that, the list of cases you 10 are referring to, would it also include a list of 11 open FOIA requests on the same subject? 12    A   <b>Yes.</b> 13    Q   Okay. 14    A   <b>They were -- the list was of open and</b> 15 <b>closed cases relating to a specific subject.</b> 16    Q   And closed cases? 17    A   <b>Yes.</b> 18    Q   Okay. Thank you for that. I think I'd 19 like to move on. I think there are just some 20 miscellaneous items that I want to cover. 21       THE WITNESS: Can we take a moment break? 22       MS. COTCA: I was going to say, this is</p>	<p>172</p> <p>1 e-mail string, yes. 2       MR. GARDNER: Thank you. 3       MS. COTCA: Yes, of course. 4    BY MS. COTCA: 5    Q   You can take a look at it, and let me 6 know once you have had a chance to review it. 7    A   <b>Yes.</b> 8    Q   Okay. And it appears to be, there's an 9 e-mail that you received November 17, 2015, from 10 Cheryl Mills. 11       And then the top, the first page of the 12 document -- of Exhibit 19 is another e-mail string 13 with Ms. Mills and Richard Visek. Where it says, 14 bottom, the last e-mail on the first page of the 15 exhibit says, Hi, Cheryl. John and I tried to 16 call you. We're wondering if you have some time 17 between 11:30 and 1:30 tomorrow to talk about the 18 FOIA documents, including steps the department is 19 taking. 20       Do you see that? On the first page of 21 the exhibit. 22    A   <b>Yes.</b></p>

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1 Q Okay. After having a chance to review  
2 the exhibit, is the "John" referenced in Ms.  
3 Mills' e-mail on November 17 at 4:55, is that  
4 referring to you?  
5 A Yes.  
6 Q Okay. Do you know what she is -- what  
7 the FOIA documents referred to in this e-mail are  
8 about?  
9 A Yes.  
10 Q Okay. What are they about?  
11 A **We inadvertently released some material  
12 covered by the Privacy Act relating to Cheryl  
13 Mills and Hillary Clinton. And we were informing  
14 Cheryl Mills about this, and wanted to talk to her  
15 and offer her -- what's the word I want --  
16 insurance, like the department's insurance to  
17 protect her personal information.**  
18 Q Okay. I just -- I was just curious what  
19 the FOIA documents were referring to.  
20 A **That's all.**  
21 Q You have answered my question.  
22 A **Yes.**

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1 Q Thank you.  
2 MS. COTCA: Can we go off the record for  
3 a minute.  
4 VIDEO SPECIALIST: We are going off the  
5 record at 16:01.  
6 (A recess was taken.)  
7 VIDEO SPECIALIST: We are back on the  
8 record at 16:01.  
9 (Hackett Deposition Exhibit 20 marked for  
10 identification.)  
11 BY MS. COTCA:  
12 Q Mr. Hackett, you are being handed Exhibit  
13 20. If you can take a look at that and let me  
14 know once you are done reviewing it.  
15 A **Okay.**  
16 Q Thank you. What does this document  
17 appear to be?  
18 A **The document appears to be an FBI 302  
19 document of an interview.**  
20 Q Is this 302 of your interview that you  
21 provided to the FBI?  
22 A **I'm told that this is my 302.**

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1 Q Okay.  
2 A **But I have never seen this document  
3 unredacted, or I had nothing to do with its -- you  
4 know, its drafting.**  
5 Q Okay. Sure.  
6 And I believe when we began your  
7 deposition, you said that you reviewed your FBI  
8 302 in preparation for your deposition.  
9 Is this the 302 that you reviewed in  
10 preparation for your deposition?  
11 A **Yes.**  
12 Q Okay. And my next question is, was the  
13 302 you reviewed in unredacted or redacted form?  
14 A **Redacted.**  
15 Q Redacted.  
16 And I think you just answered. You have  
17 never seen the unredacted form of your FBI 302?  
18 A **Correct.**  
19 Q Okay. Just want to ask you a few things  
20 about some of the things that are noted in here.  
21 The second paragraph on the first page of  
22 your 302, there is a remark here where it says,

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1 Some of the documents were filed out of order --  
2 and then there is a redaction -- opined the  
3 documents -- I believe that's a reference to  
4 you -- opined the documents were prearranged  
5 differently than one would expect if the documents  
6 were simply printed out and then stacked into  
7 boxes.  
8 Why did you say that? Why did you think  
9 they were put in prearranged differently than one  
10 would expect?  
11 MR. GARDNER: Objection. Lack of  
12 foundation.  
13 A **The box I looked at in early January of  
14 2015, it's a bankers box, which are -- I can't  
15 remember the dimensions of a bankers box. The  
16 documents were piled vertically in two piles in  
17 this large bankers box, with copier paper and  
18 other paper kind of wedged in between to hold up,  
19 you know, the vacant spots in the box. Which in  
20 the records management world, that's kind of  
21 unusual. Why wouldn't you just use the whole  
22 bankers box.**

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1       **The other piece of that is that, I looked**  
2 **at a box which I thought covered September to**  
3 **December 2012. And as far as I could tell at the**  
4 **time, the documents relating to September 2012 or**  
5 **around the Benghazi attack were -- had been taken**  
6 **out, and they were out -- they were after -- filed**  
7 **after December of 2012.**  
8       **So that's the only thing I was -- the**  
9 **point I was making.**  
10      Q   Okay. You also -- the next sentence  
11 says, IPS personnel provided copies of the  
12 documents to State's Bureau of Legislative  
13 Affairs, Office of Legal Advisor, and the Office  
14 of Congressional and Public Affairs.  
15       Do you recall when those copies were  
16 provided?  
17      **A I know the copying went on shortly after**  
18 **when the boxes came in in December of 2014.**  
19      Q   Okay. Then moving into the next  
20 paragraph, towards the end, the last two  
21 sentences, where it says -- states, IPS had to  
22 wait on the Office of Legal Counsel to provide an

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1 official determination as to whether the e-mails  
2 would be considered official State records. At  
3 some point the determination was made that the  
4 e-mails would not be considered official State  
5 records.  
6       Do you see that?  
7      **A I do.**  
8      Q   Okay. When was the determination made  
9 that Secretary Clinton's e-mails would not be  
10 considered State records, official State records?  
11       MR. GARDNER: Objection. Lack of  
12 foundation.  
13      **A Actually, I think the agent misunderstood**  
14 **what I said, so this needs to be corrected. We**  
15 **have to correct it.**  
16      Q   What --  
17      **A So the --**  
18      Q   What did --  
19      **A It should say --**  
20      Q   -- you say --  
21      **A It should say, at some point the**  
22 **determination was made that the e-mails would be**

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1 **considered official State records.**  
2      Q   Oh. Okay. Prior to the affirmative  
3 determination that they are considered official  
4 State records, was there a determination at any  
5 point prior to that that they would not be  
6 considered official State records?  
7      **A No.**  
8      Q   I point you to the second page of your --  
9 the FBI's 302 of your interview, and the third  
10 full paragraph, where it begins with a redaction.  
11 Which, again, I believe it's your name that's  
12 redacted there.  
13       MR. GARDNER: You mean the second full  
14 paragraph?  
15       MS. COTCA: Second full paragraph. I'm  
16 sorry. Yes. Thank you.  
17      Q   Where the redaction that says, was not  
18 aware of anyone at IPS or at State who received  
19 rules or parameters of -- parameters the Clinton  
20 team and/or Williams & Connolly used to segregate  
21 Clinton's personal and official work e-mails.  
22       Do you see that?

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1      **A Yes.**  
2      Q   Okay. Do you recall this conversation  
3 provide -- this conversation when you were being  
4 interviewed by the FBI?  
5      **A When I was -- do I recall the**  
6 **conversation, or do I recall the conversation**  
7 **about during my FBI interview?**  
8      Q   During your FBI interview.  
9      **A No.**  
10     Q   Okay. Well, do you recall, then, the  
11 conversation that you had when you were at the  
12 State Department about receiving rules or  
13 parameters from Secretary Clinton or her attorneys  
14 that they used to segregate her personal and  
15 official work e-mails?  
16     **A Yes.**  
17     Q   Okay. What do you recall about that?  
18     **A I recall it wasn't much of a**  
19 **conversation. I -- I was -- I mean, I have to**  
20 **say, it was emphatic to the Under Secretary of**  
21 **Management -- and I didn't speak in tones like**  
22 **that very often to him -- you know, that we needed**

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1 **these -- you know, the guidelines.**  
2 Q Okay. And when you said, the Under  
3 Secretary, are you referring to Patrick Kennedy?  
4 **A Yes.**  
5 Q Okay. Anybody else who you raised these  
6 concerns to, other than Patrick Kennedy?  
7 **A I think I might have raised it to Rich**  
8 **Vissek, the Acting Office of Legal Advisor, or**  
9 **Peggy -- or Margaret Grafeld raised it to Rich, as**  
10 **well.**  
11 Q Why -- why did you feel so strongly that  
12 this was necessary, that they provide this  
13 information?  
14 **A Well, we heard that there were 50,000 or**  
15 **60,000 e-mails, and that they had -- "they" being**  
16 **the Secretary's team -- had culled out 30,000 of**  
17 **these. And which is -- so we wanted to know what**  
18 **criteria they used.**  
19 **The standard from the National Archives**  
20 **is very strict. If there was -- if there were**  
21 **mixed records, that would be considered a federal**  
22 **record. If it was mixed personal and mentioned a**

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1 **discussion, that would be -- under the narrow**  
2 **National Archives rules, it would be considered a**  
3 **federal record.**  
4 Q And do you know if the e-mails that were  
5 returned by Secretary Clinton and her attorneys,  
6 if they followed that guideline to include an  
7 e-mail that would include mixed information,  
8 personal and official?  
9 **A I don't know.**  
10 Q Did you -- was a request ever made by  
11 Patrick Kennedy or anybody else who you raised  
12 this to?  
13 **A Ambassador Kennedy told me he would ask**  
14 **for the -- the guidelines.**  
15 Q Do you know if the guidelines were ever  
16 provided to Patrick Kennedy?  
17 **A Not during my tenure at the State**  
18 **Department.**  
19 Q And that would be in 2016. Correct?  
20 **A Right.**  
21 Q March of --  
22 **A To March of 2016.**

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1 Q Okay. Let me direct you to the last full  
2 paragraph on this page that begins with, Prior to  
3 the formal FOIA review by IPS of the 296 e-mails.  
4 **A Okay.**  
5 Q Does -- the 296 e-mails, is this  
6 referring to the Benghazi-related e-mails that  
7 Secretary Clinton returned?  
8 **A I believe -- the Benghazi?**  
9 Q Or --  
10 **A Can you restate that question, please.**  
11 Q Let me make it simple.  
12 What do the 296 e-mails refer to?  
13 **A I believe this relates to the -- the 296**  
14 **relates to a subset of the former Secretary's**  
15 **e-mails that were made available to Congress,**  
16 **which were later released after a FOIA review.**  
17 Q Okay. When were they released to  
18 Congress?  
19 **A Some time in the spring of 2015.**  
20 Q So further down in the -- starting with  
21 the second full sentence, However, and then I  
22 believe -- there is a redacted name -- and her

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1 team did not work with interagency reviews  
2 familiar to -- and then another redaction.  
3 Who are you referring to in that  
4 paragraph there?  
5 **A I'm referring to an attorney who worked**  
6 **for the Office of Legislative Affairs.**  
7 Q And what attorney is that? Who was that?  
8 **A Catherine Duval.**  
9 Q And what was -- what was your concern  
10 there, if you can elaborate?  
11 **A The concern was, in the 296 that there**  
12 **were other agencies' equities in those documents,**  
13 **you know, potentially classified information. But**  
14 **any release decisions -- and doing a FOIA review,**  
15 **we would normally make a referral back to that**  
16 **home agency. And Ms. Duval seemed to imply that**  
17 **she had already done that kind of coordination.**  
18 **But when we asked who she had coordinated**  
19 **with, they were people not familiar in our regular**  
20 **FOIA process.**  
21 Q Okay. And that's people, when you -- the  
22 people you are referring to, that's -- is it

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1 within just one agency, or is that dispersed  
2 through different agencies?  
3 **A It would be different agencies.**  
4 Q Okay.  
5 **A Depending on the equities --**  
6 Q Okay.  
7 **A -- in 296.**  
8 Q The last sentence there you say that, may  
9 have coordinated with DOJ, but not with the FBI.  
10 Do you know what -- what this means, or  
11 what this is referring to?  
12 **A Again, I mean, we were familiar with**  
13 **the -- our -- our parallel shops, you know, in**  
14 **other agencies, similar to IPS; we knew all the**  
15 **players there, the other Directors of the office.**  
16 **And, so, we contacted them, and they have**  
17 **not received any referrals from her. So we**  
18 **wondered who she was working with.**  
19 Q So who were the individuals who she was  
20 working with, as opposed to the normal individuals  
21 who you normally dealt with?  
22 **A I -- I think some of them were in their**

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1 **legal shops. But usually they don't make**  
2 **decisions about -- release decisions.**  
3 Q Moving on to the second page.  
4 MR. GARDNER: The third page?  
5 Q I'm sorry. The third page, yes. The  
6 next page.  
7 And in that paragraph it looks like there  
8 is a reference here with respect to doing a light  
9 review and light redactions.  
10 Can you describe what this was about, and  
11 what your concern was about with respect to the  
12 way redactions were being made -- or were made?  
13 **A I can't recall all of the details about**  
14 **this paragraph, and I don't think the agent caught**  
15 **the entire gist of it.**  
16 **I think initially with the 296, Ms. Duval**  
17 **was trying to put pressure on us to do the review**  
18 **quickly, and that's where the "light review" came**  
19 **out. And I think she said a review had already**  
20 **been done.**  
21 **But then our -- State's Office of Legal**  
22 **Advisor told us just to perform a regular FOIA**

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1 **review on -- on these documents.**  
2 Q Who did she say that the review had  
3 already been done by?  
4 **A Again, it was that -- that previous**  
5 **coordination that I explained to you about.**  
6 Q Okay.  
7 **A With -- with people we didn't -- we were**  
8 **unfamiliar with.**  
9 Q Okay. I understand.  
10 Beginning in the first sentence of the  
11 second full paragraph. Again it begins with the  
12 redaction. And I believe it appears -- I believe  
13 that's your name.  
14 **A Uh-huh.**  
15 Q Believed there was interference with the  
16 formal FOIA review process.  
17 Do you see that?  
18 **A Yes.**  
19 Q Okay. Did you believe there was an  
20 interference with the formal review process in  
21 2014?  
22 **A Now, which paragraph is the first?**

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1 MR. GARDNER: It's --  
2 Q The second full. The first sentence of  
3 the second full paragraph.  
4 **A Oh. I -- well, I -- it's explained here.**  
5 **I believe that some bureaus were convinced, or --**  
6 **and analysts were convinced, once it was explained**  
7 **to them, to redact something but use a B5**  
8 **exemption versus a B1 exemption.**  
9 Q Did you think that was appropriate?  
10 **A No, I didn't.**  
11 Q Did you voice that to anybody?  
12 **A Yes.**  
13 Q To whom?  
14 **A I voiced it to Peggy Grafeld, my boss.**  
15 **And -- and I spoke to -- some of these**  
16 **conversations might be covered by privilege. But**  
17 **I --**  
18 MR. GARDNER: Well, then, hold on. Hold  
19 on. She is not asking you to disclose privileged  
20 information.  
21 THE WITNESS: No.  
22 MR. GARDNER: If you can answer the



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1 question without disclosing privilege, please do  
2 so. If not, I instruct you not to answer.  
3 **A Okay. So in discussions with staff, the**  
4 **attorneys in the Office of Legal Advisor.**  
5 Q Okay. And when did you have -- I want to  
6 know the time frame when you had those concerns,  
7 and when you raised those concerns to Ms. Grafeld  
8 or other attorneys.  
9 **A It had to have been around this, the time**  
10 **we were processing the original 296. So May to**  
11 **June 2015.**  
12 Q Okay. Did you believe that there was  
13 interference in the FOIA process in any other way  
14 with respect to the review of Secretary Clinton's  
15 e-mails?  
16 **A No. And I think it says somewhere in**  
17 **here -- and I can't remember where -- that after**  
18 **the -- the reviews under the Leopold case got**  
19 **going, we didn't seem pressured at all. Our only**  
20 **pressure was on ourselves to meet the court**  
21 **deadlines to get the material reviewed.**  
22 Q Okay. Who were the attorneys that you

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1 raised the concerns with?  
2 **A Jamie Bair. And I can't remember the**  
3 **other attorney at that time. There -- there**  
4 **were -- there was a new attorney, and I have**  
5 **forgotten her name now.**  
6 Q Do you know why there was pressure  
7 exerted to make redactions under a B5 redaction,  
8 as opposed to B1?  
9 MR. GARDNER: I let this go on for a  
10 while, but now we really are beyond the scope of  
11 the court's Order in terms of permissible  
12 discovery.  
13 Q I'll refer you to the last paragraph of  
14 your -- of the FBI's 302 notes of your interview.  
15 **A Last page?**  
16 Q The last page, the last paragraph.  
17 **A Okay.**  
18 Q Where it begins again with the redaction,  
19 I believe that's your name, described Jacob  
20 Sullivan and Cheryl Mills as gatekeepers for  
21 sending Clinton e-mails/material.  
22 Can you elaborate on what you meant by

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1 this?  
2 **A Excuse me.**  
3 Q Sure.  
4 **A I don't know where I got that. I think**  
5 **this is me. You know, this redaction is -- the**  
6 **FBI is redacting my name there.**  
7 **But I don't recall -- I mean, my**  
8 **interpretation of that line -- I don't remember**  
9 **who told me that Jacob -- Jake Sullivan and Cheryl**  
10 **Mills were gatekeepers for sending the former**  
11 **Secretary e-mails and material. And I don't**  
12 **recall why I told the FBI that, you know.**  
13 **They may have asked me a question, but**  
14 **I -- I don't recall.**  
15 Q Okay. Who was -- who is Eric Stein?  
16 **A Eric at the time I worked there was**  
17 **Assistant to the Deputy Assistant Secretary, to**  
18 **Margaret Grafeld.**  
19 Q Okay.  
20 **A He was her Deputy.**  
21 Q Okay. And was he involved in the process  
22 of obtaining Secretary Clinton's e-mails in 2014

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1 and 2015?  
2 **A I think he was. That, you know, he**  
3 **worked very closely with Peggy, and had to -- and,**  
4 **yes. I would say yes.**  
5 Q Did you ever discuss with Mr. Stein --  
6 well, strike that. I'll just show you the next  
7 and final exhibit.  
8 MR. GARDNER: Never make promises you  
9 can't keep.  
10 MS. COTCA: I am going to try my best.  
11 MS. BURKE: She just has another hour or  
12 so. You haven't heard that today at all.  
13 (Hackett Deposition Exhibit 21 marked for  
14 identification.)  
15 MR. GARDNER: For the sake of time, do  
16 you want him to read this whole thing before you  
17 ask questions, or do you have specific questions  
18 about specific parts?  
19 BY MS. COTCA:  
20 Q You don't have to read the entire  
21 document. If you can just peruse it. And I just  
22 want to see if you have ever seen this document

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1 before.

2 **A When this first came out, when these came**

3 **out on the FBI website, I think I might have seen**

4 **this, yes.**

5 Q Okay. And do you know whose interview

6 these notes reflect?

7 MR. GARDNER: I mean, if you think you

8 know the answer.

9 Q If you know.

10 **A Has this been released by the -- I**

11 **mean...**

12 Q Whether or not it has been released, I'm

13 just asking if you know as you sit here today

14 whose interview these notes reflect?

15 **A This -- this looks like it might be Eric**

16 **Stein's interview.**

17 Q Okay. I just want -- I want to point you

18 to the third full paragraph on the first page, the

19 last part of that paragraph.

20 Around the second time, redaction,

21 received a telephone call from attorney --

22 redaction, Attorney Office of the Legal Advisor

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1 who asked, redaction, if there were any

2 Clinton-related e-mails in the, redaction, PST

3 file that, redaction, had from a previous FOIA

4 request.

5 Do you see that?

6 **A Yes.**

7 Q Do you know who the attorney was who

8 called Mr. Stein asking for this information?

9 MR. GARDNER: Objection. Lack of

10 foundation.

11 **A I don't know.**

12 Q Okay. Do you know what PST file this

13 document -- these notes refer to?

14 MR. GARDNER: Objection. Lack of

15 foundation.

16 **A No.**

17 Q Did you ever have a conversation with Mr.

18 Stein about a call he may have received from an

19 attorney from the Office of Legal Advisor, asking

20 whether Clinton-related e-mails in a PST file had

21 previous -- from a previous FOIA request contained

22 Clinton-related e-mails?

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1 **A I don't remember this at all.**

2 Q Okay. On Page 4 of the document.

3 **A Okay.**

4 Q There's a reference to the "7th floor

5 group" or the "shadow government" in the first

6 full paragraph.

7 Do you see that?

8 **A Yes.**

9 Q Have you ever heard such terms, or do you

10 know what that refers to?

11 **A Eric told me about this; that the**

12 **management at the State Department would hold**

13 **meetings and discuss FOIA cases, or FOIA in**

14 **general. Sometimes we were invited to these**

15 **meetings, Eric was, once in a while I would go. I**

16 **think I only went once when it -- that one time**

17 **when it related to Secretary Powell's e-mail**

18 **releases.**

19 **But, you know, that's all I know about**

20 **it. I don't know what they discussed. And I**

21 **thought it was interesting that they would have a**

22 **meeting about FOIA and not invite all the FOIA --**

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1 **any of the FOIA people to it.**

2 Q Going back to the notation about the PST

3 file, and the phone call that Mr. Stein received

4 according to these notes.

5 Did you ever receive a call from anybody

6 asking whether Clinton-related e-mails were

7 contained in any PST file?

8 **A No. No.**

9 MS. COTCA: Can we take a five-minute

10 break --

11 MR. GARDNER: Yeah, of course.

12 MS. COTCA: -- to wrap up.

13 VIDEO SPECIALIST: We are going off the

14 record at 16:35.

15 (A recess was taken.)

16 VIDEO SPECIALIST: We are back on the

17 record at 16:40.

18 BY MS. COTCA:

19 Q Mr. Hackett, are you aware if there were

20 any meetings held by the White House in regards to

21 Secretary Clinton's e-mails in 2014?

22 **A No.**

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1 Q Earlier in your testimony I believe you  
2 referred to Karen Finnegan?  
3 A Yes.  
4 Q Okay. Can you identify who she is?  
5 A Karen Finnegan Meyers was, when I was  
6 working with her, was the -- was a Division Chief  
7 within IPS.  
8 And within her organization -- she's an  
9 attorney, not relating to the Office of Legal  
10 Advisor; but worked in our organization, but in  
11 this division had the Litigation and Appeals  
12 Branch.  
13 Q Is this the same Karen Finnegan that is  
14 included in the e-mails contained in the  
15 CREW-related e-mails?  
16 A Yes.  
17 Q Okay.  
18 A Yes.  
19 Q Because I believe it just says on there,  
20 Karen Finnegan. I don't know if I saw the Meyers.  
21 That's why I just wanted to double-check we were  
22 talking about the same person.

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1 A In 2013 she was Karen Finnegan, and later  
2 was Karen Finnegan Meyers.  
3 Q Right. Thank you. What about Marilyn  
4 Castro; do you know who she is?  
5 A Marilyn Castro or --  
6 Q Yes.  
7 A I don't recall.  
8 Q Okay. What about Rosemary Reed?  
9 A Rosemary Reed was -- is, was a Branch  
10 Chief within the FOIA organization.  
11 Q You said, Branch Chief. What branch?  
12 A I can't remember what it's called.  
13 Response and Liaison Branch, or something like  
14 that.  
15 She -- she headed the -- or, still heads  
16 the branch that does all the intake of the FOIA  
17 requests.  
18 Q Thank you. And what about Cristina Logg,  
19 L-O-G-G?  
20 A Cristina Logg was -- she is no longer  
21 there. She was in the Litigation Branch as one of  
22 the analysts.

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1 Q Why did you leave the State Department?  
2 A I left the State Department because I had  
3 come to work with Sheryl Walter and, you know, she  
4 was gone. And I hadn't planned on being Director.  
5 But -- I got the opportunity to be  
6 Director, but I couldn't really do any changes or  
7 reprogramming or whatever, because we were just,  
8 you know -- had a hundred cases in litigation, and  
9 we had -- had 20 or 30 thousand FOIA requests  
10 coming in, with limited resources.  
11 And my skill set, I'm better at start-ups  
12 and making changes to organizations. And -- and  
13 you can't, you know -- couldn't make a lot of  
14 change going on. We were just, you know, trying  
15 to put out the fires, so to speak.  
16 Q Okay. And where did you go after, when  
17 you left the State Department?  
18 A I left the State Department and went  
19 to -- I work for Leidos, which is a defense  
20 contractor.  
21 Q Okay. Doing similar type work?  
22 A No. When I first left, I did similar

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1 type work.  
2 Q Okay.  
3 A But then I'm now an instructor on a  
4 course unrelated to this kind of work.  
5 Q Okay. To the best of your knowledge,  
6 have all of your answers been truthful?  
7 A Yes.  
8 MS. COTCA: That concludes today's  
9 deposition, unless your attorneys have any  
10 followup questions.  
11 EXAMINATION BY COUNSEL FOR THE DEFENDANT  
12 BY MR. GARDNER:  
13 Q I do have a few questions. Actually,  
14 let's start with --  
15 MR. GARDNER: We will mark this as  
16 Exhibit 22.  
17 (A discussion was held off the record.)  
18 (Hackett Deposition Exhibit 22 marked for  
19 identification.)  
20 BY MR. GARDNER:  
21 Q Mr. Hackett, earlier today plaintiff's  
22 counsel showed you Exhibit 11, which was a

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1 Timeline of Events. I don't know if you recall  
2 that from earlier today.  
3 **A Yes.**  
4 Q I want to show you what's been marked as  
5 Exhibit 22.  
6 Do you recognize this exhibit?  
7 **A Yes.**  
8 Q What is it?  
9 **A It's a Timeline of Events. And it**  
10 **relates to the Records Management activities of**  
11 **the -- occurring during the terms of the past --**  
12 **current and past four Secretaries of State.**  
13 Q Is it a more complete version of what was  
14 marked as Exhibit 11?  
15 **A Yes.**  
16 Q I want to draw your attention to Page 11  
17 of this exhibit.  
18 And there is a heading that says,  
19 December 5, 2014.  
20 Do you see that?  
21 **A Yes.**  
22 Q And it states that IPS received 12

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1 bankers boxes of e-mail correspondence, printed to  
2 paper, from the law firm of Williams & Connolly,  
3 on behalf of Secretary of State Hillary Clinton.  
4 IPS delivers the boxes to A/GIS/GPS for storage  
5 and copying.  
6 To the best of your knowledge, Mr.  
7 Hackett, is that an accurate statement?  
8 **A Yes.**  
9 Q Now, on Page 12 of Exhibit 22, under  
10 January 21, 2015, it states that A/GIS instructs  
11 IPS/RA to conduct a basic survey of the records to  
12 determine the record status of the collection.  
13 Again, to the best of your knowledge, Mr.  
14 Hackett, is that an accurate statement?  
15 **A Yes.**  
16 Q So prior to January 21, 2015, had a basic  
17 survey of those 12 bankers boxes been conducted to  
18 determine the record status?  
19 MR. GARDNER: Objection.  
20 **A No.**  
21 Q No, it had not been conducted?  
22 **A No, it had not been conducted.**


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1 Q Okay. I want to draw your attention now  
2 to Exhibit 15. This is the Joint Status Report  
3 from December 31, 2014, that counsel showed you  
4 earlier today.  
5 Now, Mr. Hackett, what is the date of  
6 this status report that's marked as Exhibit 15?  
7 **A December 31, 2014.**  
8 Q As of December 31, 2014, was IPS aware of  
9 the contents of the 12 banker boxes provided by  
10 Secretary Clinton's attorneys?  
11 MS. COTCA: Objection. Form.  
12 **A No.**  
13 Q As of December 31, 2014, were you aware  
14 of the contents of the 12 banker boxes provided by  
15 Secretary Clinton's attorneys?  
16 MS. COTCA: Objection.  
17 **A No.**  
18 Q In your opinion, Mr. Hackett, would it  
19 have been appropriate to mention these 12 banker  
20 boxes provided by Secretary Clinton's attorneys in  
21 this December 31 Joint Status Report that's been  
22 marked as Exhibit 15?

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1 MS. COTCA: Objection.  
2 **A No.**  
3 Q Why not?  
4 **A We didn't know whether they were part of**  
5 **the records of the department.**  
6 Q Let's turn back to Exhibit 22, which is  
7 the timeline, the last exhibit.  
8 And could you turn to Page 13. It says  
9 here, on February 9, 2015, a State Department,  
10 Agency Records Officer submits Records Appraisal  
11 Report and a draft Action Plan to Acting Director  
12 of IPS.  
13 Do you see that?  
14 **A Yes.**  
15 Q To the best of your knowledge, is that  
16 accurate?  
17 **A Yes.**  
18 Q And what is an agency -- what is a  
19 Records Appraisal Report?  
20 **A It's a document or a process in which the**  
21 **Agency Records Officer or an archivist reviews a**  
22 **series of records to see their, in this case,**

<p style="text-align: right;">205</p> <p><b>1 value; and also in this case whether or not they</b> <b>2 reflect the Secretary of State as official records</b> <b>3 of the department.</b> 4 Q Prior to February 9, 2015, to the best of 5 your knowledge, had a determination been made as 6 to whether or not the 12 banker boxes provided by 7 Secretary Clinton's attorneys were official agency 8 records? <b>9 A No.</b> 10 Q Let's turn to Exhibit 16 that plaintiff's 11 counsel showed you earlier. And that's the Joint 12 Status Report from February 2, 2015. 13 And I want to draw your attention to the 14 same sentence in the same paragraph that 15 plaintiff's counsel showed you. And that's 16 Paragraph 3, on Page 2, and the first sentence. 17 And it says -- I will just read it 18 again -- In the course of preparing additional 19 information to provide to plaintiff for purposes 20 of settlement discussions, defendant has 21 discovered that additional searches for documents 22 potentially responsive to the FOIA must be</p>	<p style="text-align: right;">207</p> <p>1 contained in those 12 banker boxes received by 2 Secretary Clinton's attorneys? <b>3 A No, we hadn't made an official</b> <b>4 determination.</b> 5 MR. GARDNER: I have no further 6 questions. 7 MS. COTCA: What exhibit is that? 8 MR. GARDNER: Exhibit 22. Which one, the 9 last one? 10 MS. COTCA: No. The last one. 11 THE WITNESS: Exhibit 16. 12 MR. GARDNER: Oh, Exhibit 16. 13 MS. COTCA: May I see that just for a 14 moment, Mr. Hackett. Thank you. I put my copies 15 away. 16 MR. GARDNER: Oh, I'm sorry. 17 MS. COTCA: That's okay. 18 MS. BURKE: We didn't know about Exhibit 19 22. 20 MR. GARDNER: That's the big surprise. 21 EXAMINATION BY COUNSEL FOR PLAINTIFF 22 BY MS. COTCA:</p>
<p style="text-align: right;">206</p> <p>1 conducted. 2 Do you see that? <b>3 A Yes.</b> 4 Q Mr. Hackett, does that paragraph 5 specifically reference searches of the 12 banker 6 boxes received from Secretary Clinton's attorneys? 7 MS. COTCA: Objection. <b>8 A No.</b> 9 Q In your experience, is it typical to 10 describe the source of additional searches in a 11 Joint Status Report? 12 MS. COTCA: Objection. <b>13 A No.</b> 14 Q Why not? 15 MS. COTCA: Same objection. <b>16 A Well, and I mean in this case, or in</b> <b>17 general, unless you know definitely that there are</b> <b>18 responsive records in a specific collection, I</b> <b>19 don't think you would, you know, name the</b> <b>20 collection.</b> 21 Q As of February 2, 2015, did you know 22 whether or not there were official agency records</p>	<p style="text-align: right;">208</p> <p>1 Q Mr. Hackett, if you could look -- 2 MR. GARDNER: How about I give him my 3 copy. 4 Q -- at Exhibit 16. 5 MR. GARDNER: Okay. 6 Q The same paragraph where your attorney 7 just asked you questions about. 8 What are the additional searches that 9 were referenced there? <b>10 A Okay. You're asking me what the --</b> 11 Q What were the additional searches 12 referenced in that paragraph, if not Secretary 13 Clinton's e-mails? 14 MR. GARDNER: Objection. Form. <b>15 A Probably Secretary's e-mails and other</b> <b>16 material that was kind of inbound during that</b> <b>17 period.</b> 18 Q I am going to ask your attorney if he can 19 give you his copy, so I can look on. <b>20 A Okay.</b> 21 MR. GARDNER: A copy of which? 22 MS. COTCA: Same exhibit, Exhibit 16.</p>

<p style="text-align: right;">209</p> <p>1 MR. GARDNER: Oh, sure. Hold on. 2 MR. PEZZI: Do you have that, Josh? 3 MR. GARDNER: I just put mine away. Here 4 you go. 5 BY MS. COTCA: 6 Q According to what was provided in 7 Paragraph 3, Defendant has discovered that 8 additional searches for documents potentially 9 responsive to the FOIA must be conducted. 10 Did that mean at that point that a search 11 was going to be conducted of the Clinton e-mails? 12 <b>A I -- I mean, I can't -- can't remember</b> 13 <b>what -- I assume that's what it meant.</b> 14 Q Okay. And, again, do you know when the 15 State Department determined that additional 16 searches had to be conducted that's referenced in 17 Paragraph 3 of the February 2, 2015, Joint Status 18 Report? 19 <b>A I don't recall.</b> 20 MR. GARDNER: That's his. 21 MS. COTCA: That's all I have. 22 MR. GARDNER: And we did reserve the</p>	<p style="text-align: right;">211</p> <p>1 ACKNOWLEDGMENT OF DEPONENT 2 I, JOHN FRANCIS HACKETT, do hereby acknowledge that 3 I have read and examined the foregoing testimony, 4 and the same is a true, correct and complete 5 transcription of the testimony given by me and any 6 corrections appear on the attached Errata sheet 7 signed by me. 8 9 _____ 10 (DATE) (SIGNATURE) 11 12 13 14 15 16 17 18 19 20 21 22</p>
<p style="text-align: right;">210</p> <p>1 right to read and sign. Thank you. 2 VIDEO SPECIALIST: If there are no 3 further questions, then we are going off the 4 record at 16:55. 5 (Off the record at 4:55.) 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22</p>	<p style="text-align: right;">212</p> <p>1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC 2 I, Debra A. Whitehead, the officer before whom the 3 foregoing proceedings were taken, do hereby certify 4 that the foregoing transcript is a true and correct 5 record of the proceedings; that said proceedings 6 were taken by me stenographically and thereafter 7 reduced to typewriting under my supervision; and 8 that I am neither counsel for, related to, nor 9 employed by any of the parties to this case and have 10 no interest, financial or otherwise, in its outcome. 11 IN WITNESS WHEREOF, I have hereunto set my hand and 12 affixed my notarial seal this 2nd day of June, 2019. 13 14 My commission expires: 15 September 14, 2023 16 17  18 NOTARY PUBLIC IN AND FOR THE 19 DISTRICT OF COLUMBIA 20 21 22</p>

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