

3. These facts include:

a. The identities of the three State Department officials referenced in the FBI's interview notes of Bryan Pagliano. ECF No. 62-1, p. 4 of the FBI's Notes. The State Department identified these officials in response to an interrogatory the Court authorized Plaintiff to serve on the agency.¹ Jan. 15, 2019 Memo. at p. 6 (ECF No. 65).

b. In January 2013, State Department Records Officer Tasha Thian worked with Secretary Clinton, Cheryl Mills, and senior officials leaving the State Department to review procedures for removing personal papers and provide guidance on records retention. Ex. 11 (Walter Tr., pp. 76-82) (a complete copy of the deposition transcript is also available at <https://www.judicialwatch.org/wp-content/uploads/2019/07/JW-v-State-Sheryl-Walter-depo-01242-1.pdf>, last accessed Aug. 21, 2019); Ex. 12 & 13 (Walter Ex. 7 & 8).

c. In June 2013, FOIA requests related to Clinton's emails became a "concern of focus" for the Office of Information and Program Services (IPS) when then-IPS Deputy Director John F. Hackett saw a photograph on the WTOP's website of Clinton sitting on a military plane holding a BlackBerry. Ex. 1 (Hackett Tr., pp. 29-36) (a complete copy of the deposition transcript is also available online at <https://www.judicialwatch.org/wp-content/uploads/2019/07/JW-v-State-Hackett-deposition-01242.pdf>, last accessed Aug. 21, 2019). According to Hackett's testimony, the picture raised questions: "What was that BlackBerry? Was it a government BlackBerry? And if so, where were the e-mails relating to that BlackBerry?" Hackett Tr. at p. 30. Hackett raised concerns with IPS Director Sheryl Walter and A/GIS Deputy Assistant Secretary Margaret Grafeld. Hackett Tr. at pp. 30-31. An inquiry

¹ The officials' identities are subject to the Court's June 10, 2019 Protective Order. ECF Nos. 115 & 116. Plaintiff has redacted identifying information about these officials from the public version of this Status Report and is seeking leave to file an unredacted version under seal.

was launched into Clinton's BlackBerry and "e-mailing habits" as a result. Hackett Tr. at p. 32. Records Officer Thian was tasked with the inquiry. Hackett Tr. at p. 34.

d. In August 2013, FOIA officials reviewed all FOIA requests relating to Clinton's emails. Ex. 1 (Hackett Tr. at pp. 54-60). IPS issued a directive to stop issuing any further "No Record Located" responses to FOIA requests related to Clinton's emails until IPS "[came] to ground about what was known about the former Secretary's e-mailing habits." Hackett Tr. at p. 32. According to Hackett's testimony, IPS Office of Policy and Programs Chief Patrick Scholl sent the directive to the FOIA Branch analysts. Hackett Tr. at pp. 32-34. Hackett testified that Scholl "was going to redistribute it to all of the analysts [] through his [] organization." Hackett Tr. at pp. 32-34.

e. In December 2013 or January 2014, IPS located a record in response to a FOIA request submitted by Gawker Media that identified Clinton's email account. Ex. 1 (Hackett Tr. at pp. 59-60, 86); *see* J.K. Trotter, *This is Hillary Clinton's Secret Email: HDR22@ClintonEmail.com*, Gawker (March 3, 2015, 1:25 PM), available at <https://gawker.com/this-is-hillary-clinton-s-secret-email-hdr22-clintonem-1689178736> (last accessed Aug. 19, 2019). The Office of the Legal Advisor attempted to get "to the ground truth of what that ... e-mail address meant." Hackett Tr. at 97. According to Hackett, a Public Affairs official wrote in an email to another State Department official, "[R]emember, you're not supposed to use that e-mail" or used words to that effect. Hackett Tr. at pp. 93-94, 96.

f. In August 2014, Jamie Bair, an attorney in the Office of the Legal Advisor Attorney, was assigned Plaintiff's FOIA request and, later, this lawsuit. Ex. 1 (Hackett Tr. at pp. 122-124). At the time, Bair already had knowledge of or had been involved in the State Department's production of documents to the U.S. House of Representatives Benghazi Select

Committee, which included emails concerning Benghazi sent to or from Clinton's hdr22@clintonemail.com account. Bair alerted Hackett that the State Department may receive media inquiries about Clinton's emails. Hackett Tr. at pp. 36-42, 136-137; Ex. 2 (Hackett Ex. 1 at p. 3). According to Hackett, "they thought there was going to be press about Hillary Clinton's emails." Hackett Tr. at pp. 135-36. Hackett then asked Bair, "[W]ell, why don't we just go ask Hillary Clinton for, you know, her e-mails. And I – and I don't remember his response." Hackett Tr. at pp. 136-137.

g. In the summer of 2014, Bair met with State Department attorneys Gene Smilanksy, Katherine Duval, and Andrew Keller and discussed Clinton's email account, the 2012 FOIA request served by Citizens for Responsibility and Ethics (CREW) concerning Clinton's email accounts, and the Department's "legal obligations under FOIA and records management obligations, and possibly among others." Ex. 10 (Smilansky Tr., pp. 35-37, 39, 40-44). Bair was also involved in meetings around that time about a "larger volume of Hillary Clinton's e-mails." Smilansky Tr. at pp. 117-21.

h. In late summer or early fall of 2014, IPS Deputy Director Hackett and Executive Secretariat Staff Deputy Director Clarence Finney were asked to brief Public Affairs about Clinton's email account because Public Affairs "wanted to be prepared to answer questions about the former Secretary's records/e-mails" in response to the document production to the Benghazi Select Committee. Ex. 1 (Hackett Tr. at pp. 36-42, 65-67). The State Department's Rule 30(b)(6) witness, Elissa Guitron Pitterle, provided an outline prepared by her attorneys for her deposition that referenced an email about the briefing. The email was marked as an exhibit. Ex. 5 (Pitterle Tr., pp. 245-51); Ex. 6 (Pitterle Ex. 15). The email includes a reference to Bair.

i. In approximately August 2014, an unidentified attorney in the Office of the Legal Advisor contacted an A/GIS official to inquire whether Clinton emails existed in a PST file from an earlier FOIA request. Ex. 1 (Hackett Tr. at pp. 191-94); Ex. 4 (Hackett Ex. 21). Hackett identified the A/GIS official as Eric Stein, but did not have any further knowledge about the identity of the attorney or the PST file, or any details about the communication between the attorney and Stein. This same exchange between the attorney and Stein is referenced in FBI interview notes marked as an exhibit at Hackett's deposition. Hackett Ex. 21 at p. 1. According to the notes, the attorney, whose name has been redacted, told Stein "there were CLINTON-related emails in the [redacted] .pst file." *Id.*

j. After receiving paper copies of Clinton's emails, Hackett advised Under Secretary of Management Patrick Kennedy and possibly Deputy Assistant Secretary Margaret Grafeld or Acting Legal Advisor Richard Visek in or around December 2014 that the State Department needed to obtain whatever criteria Clinton's attorneys used to separate the Secretary's personal from her official State Department emails. Ex. 1 (Hackett Tr. at pp. 180-81). Hackett described his tone as "emphatic," stating he felt strongly that the criteria should be provided to the State Department:

Well, we heard that there were 50,000 or 60,000 e-mails, and that they had – "they" being the Secretary's team – had culled out 30,000 of these. And which is – so we wanted to know what criteria they used. The standard from the National Archives is very strict. If there was – if there were mixed records, that would be considered a federal record. If it was mixed personal and mentioned a discussion, that would be – under the narrow National Archives rules, it would be considered a federal record.

Hackett Tr. at 181-182. Kennedy informed Hackett that he would ask Clinton's team for the search parameters. When Hackett left the State Department in March 2016, the search parameters had not been provided. Hackett Tr. at 181-82.

k. In or around December 2014, Heather Samuelson created an “after action memo” to memorialize the Clinton team’s search for and processing of the Clinton emails returned to the State Department. Ex. 7 (Samuelson Tr., pp. 184, 188-89) (a complete copy of the deposition transcript is also available at <https://www.judicialwatch.org/wp-content/uploads/2019/07/JW-v-State-Heather-Samuelson-deposition-01242-1.pdf>, last accessed Aug. 21, 2019).

l. According to the State Department’s January 2016 Office of Inspector General Report, in September 2014 IPS tasked the Executive Secretariat (S/ES) with conducting the search for records responsive to the FOIA request at issue in this litigation. S/ES initially identified five records as potentially responsive but only turned over four “because it did not view the fifth document, an email, as responsive.” *See Evaluation of the Department of State’s FOIA Processes for Requests Involving the Office of the Secretary*, at p. 15 (Jan. 2016), available at <https://www.stateoig.gov/system/files/esp-16-01.pdf> (last accessed August 18, 2019). The four records were produced to Plaintiff on or about November 12, 2014. In the course of summary judgment briefing in 2015, the fifth record was determined to be responsive, but was withheld in full at the time. On April 18, 2016, the State Department produced to Plaintiff a September 29, 2012 email chain it identified as having been withheld in full, but “may now be released in part.” Ex. 3 (Hackett Ex. 17). Plaintiff believes the email chain, which includes an email from what is believed to be Jacob Sullivan’s official email address to the Secretary at her “hdr22@clintonemail.com” email address, may be the fifth record located by S/ES in the fall of 2014, but withheld from Plaintiff, first as non-responsive, then as exempt in full. If so, it may indicate the State Department knew as early as the fall of 2014 that the Secretary’s email practices affected and would be revealed by its response to Plaintiff’s FOIA request. Plaintiff asked potentially knowledgeable witnesses at their depositions whether the email chain was the

fifth record identified by S/ES in the fall of 2014. They were unable to confirm that the email chain was the fifth record.

4. It is apparent from the discovery taken to date that State Department officials knew about Clinton's email use by August 2014. Substantial questions remain, however, and the limited, additional discovery Plaintiff seeks is necessary to fill in gaps and answer questions raised by the discovery taken to date.

5. As described below, Plaintiff requests permission to take nine additional depositions and serve three additional interrogatories and four additional requests for the production of documents:

A. DEPOSITIONS

i. Jamie Bair (Attorney, Office of the Legal Advisor).

Plaintiff's ability to question Bair directly is paramount to Plaintiff's claims. As the attorney in the Office of the Legal Advisor assigned to Plaintiff's FOIA request and this lawsuit, Bair has first-hand knowledge about the State Department's responses to Plaintiff's FOIA request over time, including the review of the records located in response to the initial search conducted in the fall of 2014. Bair also has first-hand knowledge of State's settlement conduct. Until the discovery taken in this case, Plaintiff was unaware that Bair had alerted then-IPS Acting Director Hackett to potential media inquiries about Clinton's email practices when the department produced records to the Benghazi Select Committee. Plaintiff also was unaware that Hackett and Bair discussed asking the Secretary for her email, that Bair had discussed Clinton's email account and the CREW request with others in the Office of the Legal Advisor, and that Bair appears to have been involved in briefing Public Affairs about Secretary Clinton's email account. Plaintiff should have the opportunity to question Bair directly about (ii) whether the

State Department's intent to settle this case in late 2014 and early 2015 amounted to bad faith and (iii) whether the State Department has adequately searched for records responsive to Judicial Watch's request. Plaintiff requests that it also be permitted to ask questions about (i) whether Clinton's use of a private email server was intended to stymie FOIA if it learns in the course of the deposition or discovery that Bair has first-hand knowledge about this subject.

ii. Patrick Scholl (Chief, Office of Policy and Programs, IPS).

Patrick Scholl was the "head of non-litigation FOIA processing in IPS." Ex. 1 (Hackett Tr. at p. 167); Ex. 11 (Walter Tr. at pp. 24-25). Prior to former IPS Director Hackett's testimony, Plaintiff was unaware Hackett had raised concerns about Clinton's email practices with Scholl in 2013 or that, in response to those concerns, Scholl sent out a directive that no "No Record Located" responses to FOIA requests related to the Secretary's emails be issued. Hackett could not provide any further factual details regarding Scholl's directive. Scholl's testimony about the directive and knowledge of concerns about the Secretary's email practices are directly relevant to the second area of permissible discovery: (ii) whether the State Department's intent to settle this case in late 2014 and early 2015 amounted to bad faith. To the extent Scholl has first-hand knowledge about (i) whether Clinton's use of a private email server was intended to stymie FOIA or (iii) whether the State Department has adequately searched for records responsive to Judicial Watch's request, Plaintiff asks that it be permitted to question Scholl about those subjects as well.

iii. Tasha Thian (State Department Records Officer).

Prior to discovery in this case, Plaintiff was unaware of Thian's role in reviewing procedures with Clinton and her departing staff about removal of personal records and archiving of State Department records. Pltf. Mot. to Compel, Ex. 1 (ECF No. 102-1); June 12, 2019

Memo. Opinion (ECF No. 119), pp. 11-12 (II-K, Documents 1326, 1328, 3636); Ex. 11 (Walter Tr. at pp. 76-83). Plaintiff also was unaware of Thian's inquiry into Clinton's BlackBerry in 2013.

In addition, in November 2018, Thian published a book, "State Department Records & the Elections," in which she wrote about the Secretary's email practices. According to Goodreads, "Records and Information Management expert and former Department of State Records Officer Tasha Thian tells the untold, behind the scenes story with never before released material that is certain to surprise the readers." Ex. 14, also available at <https://www.goodreads.com/book/show/43191676-state-department-records-the-elections> (last accessed Aug. 20, 2019). Goodreads continues, "Tasha Thian gives an eye witness account and detailed analysis of records activities as they relate to . . . the Hillary Clinton Email server investigation." *Id.* Plaintiff requests that it be permitted to question Thian about her "eye witness" account and analysis, including Thian's work with the Secretary and her senior advisors upon their departure from the agency in 2013 and Thian's 2013 inquiry into Clinton's emails, which are relevant to all three areas into which the Court has authorized discovery.

iv. Eric F. Stein (Director, IPS).

Eric F. Stein is the current Director of IPS. He previously worked as Assistant to Deputy Assistant Secretary Grafeld. Ex. 1 (Hackett Tr. at pp. 191-92). Until Plaintiff deposed Hackett, Plaintiff was unaware Stein was the A/GIS official referenced in the FBI interview notes marked as Hackett Exhibit 21. Ex. 4. According to Hackett and the interview notes, in or around August 2014, Stein confirmed with an attorney in the Office of the Legal Advisor that Clinton emails had been located in a PST file the attorney had from a previous FOIA request. Hackett Tr. at pp.

192-95, Hackett Ex. 21. Hackett did not have any knowledge about the conversation or the name of the PST file at issue. Hackett Tr. at pp. 194-95.

In addition, the FBI interview notes reference discussions among a “powerful group of very high-ranking State officials,” referred to as the “7th Floor Group” or “The Shadow Government.” Ex. 4 (Hackett Ex. 21 at p. 4). According to the interview notes, the group held meetings “every Wednesday afternoon to discuss the FOIA process, Congressional records, and everything CLINTON-related to FOIA/C inquiries.” *Id.* Attendees included Jonathan Finer, Chief of Staff for Secretary of State John Kerry; Jennifer Stout, Deputy Chief of Staff; Heather Higginbottom, Deputy Secretary for Management and Resources; Patrick Kennedy; Julia Frifield, Assistant Secretary for Legislative Affairs; and unidentified attorneys from the Office of the Legal Adviser. *Id.* According to Hackett, Stein attended these meetings. Hackett Tr. at pp. 195-196. Again, Plaintiff was not aware that Stein was the subject of the interview notes until Hackett’s deposition. Stein also produced the September 29, 2012 email chain, with redactions, to Plaintiff on April 18, 2016, part of which was previously withheld as “non-responsive” in September 2014. OIG Jan. 2016 Report at p. 15; Ex. 3 (Hackett Ex. 17).

Plaintiff requests that it be permitted to question Stein directly about these issues. Specifically, it seeks to depose Stein about (ii) whether the State Department’s intent to settle this case in late 2014 and early 2015 amounted to bad faith and (iii) whether the State Department has adequately searched for records responsive to Judicial Watch’s request. To the extent Stein has first-hand knowledge about (i) whether Clinton’s use of a private email was intended to stymie FOIA, Plaintiff requests that it be permitted to ask questions about this as well.

v., vi, and vii. [REDACTED], [REDACTED] and [REDACTED].

Subject to a Protective Order entered by the Court on June 10, 2019, the State Department identified [REDACTED], [REDACTED], and [REDACTED] as the State Department officials referenced in the first full paragraph on page four of the FBI's interview notes of Bryan Pagliano. ECF Nos. 115 & 116; Jan. 15, 2019 Order at p. 6 (ECF No. 65); ECF No. 62-1. According to the FBI's notes, these State Department officials raised concerns on one or more occasions about Clinton's use of a private email server and federal records retention issues in 2009 and 2010. ECF No. 62-1 at p. 4 of the FBI's notes. The notes state that Pagliano relayed their concerns to Mills in late 2009 or early 2010. *Id.*

[REDACTED]

[REDACTED]. [REDACTED] [REDACTED]

[REDACTED]. [REDACTED]

[REDACTED]. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

Plaintiff deposed Pagliano in *Judicial Watch, Inc. v. Dep't of State* (Case No. 13-cv-1363-EGS) on June 22, 2016; however, it was not able to obtain any information about the facts at issue. Pagliano invoked his Fifth Amendment right or was instructed by his counsel on other grounds not to answer every question posed by Plaintiff. *Judicial Watch, Inc. v. Dep't of State*, Case No. 13-1363 (EGS) (D.D. District of Columbia) ("Case No. 13-1363"), ECF No. 128 (Pagliano Tr.). The facts alleged in the FBI's notes go to the heart of the permitted discovery of (i) whether Clinton's email use of a private email server was intended to stymie FOIA and (ii) whether the State Department's intent to settle this case in late 2014 and early 2015 amounted to bad faith. Dec. 6, 2018 Memo. (ECF No. 54); Jan. 15, 2019 Memo. (ECF No. 65). To the extent any of these individuals have first-hand knowledge about the relevant system of records to Plaintiff's FOIA request, Plaintiff requests that it be permitted to also ask questions pertaining to (iii) whether the State Department has adequately searched for records responsive to Judicial Watch's request. Plaintiff wishes to question these officials about all three areas permitted for discovery.

viii. and ix. Hillary Rodham Clinton and Cheryl D. Mills.

Plaintiff informed the Court in its December 19, 2018 Proposed Discovery Plan that it anticipated Clinton's and Mills' depositions would be necessary but would wait until after the initial round of discovery to make a final assessment. Plf's Proposed Discovery Plan, ¶ 3 (ECF No. 62); August 14, 2019 Order (ECF No. 126). Based on the discovery Plaintiff has taken, it is apparent that both depositions are necessary.

Mills served as Chief of Staff and Counselor to Secretary Clinton from 2009 to 2013. She also served as Clinton's personal attorney for purposes of the review of the Secretary's emails that resulted in the return of thousands of public records to the State Department in December 2014. Ex. 7 (Samuelson Tr. at p. 35); Ex. 9 (Samuelson Ex. 12).

Mills was the first witness deposed in Case No. 13-1363 pending before Judge Sullivan. Since Mills' deposition on May 27, 2016, more than three years ago, Plaintiff has gained a significant amount of knowledge about Clinton's email practices, the State Department's awareness of those practices and how it impacted records requests, and the agency's response to FOIA requests for the Secretary's emails, among other subjects, that Plaintiff did not have at the time of the deposition. Plaintiff also has learned new facts since Mills' May 2016 deposition that are directly relevant to Plaintiff's claim in this case. For example, Mills testified she was not aware of anyone addressing concerns about the State Department accessing Clinton's emails in connection with FOIA requests. Case No. 13-1363, ECF No. 126, p. 190 (Mills Tr.). According to the FBI's interview notes, however, former Clinton Campaign and State Department IT Specialist Bryan Pagliano told the FBI he had had a conversation with Mills about Clinton's use of a private email server and federal records retention concerns in late 2009 or early 2010. ECF No. 62-1 at p. 4 of the FBI's Notes. Mills confirmed that she occasionally interacted with

Pagliano at the State Department. Mills Tr. at pp. 161-62. Accordingly, Plaintiff requests that it be permitted to question Mills about this conversation and, more broadly, about (i) whether Secretary Clinton's use of a private email server was intended to stymie FOIA. Because Mills was involved in the return of Clinton's emails in 2014 and because Mills' records are also at issue in this case, Plaintiff requests that it also be permitted to depose Mills on the other two areas of permitted discovery: (ii) whether the State Department's intent to settle this case in late 2014 and early 2015 amounted to bad faith and (iii) whether the State Department has adequately searched for records responsive to Plaintiff's request.

In a revised discovery plan filed with the Court more than two years ago, Plaintiff indicated it would not seek discovery about Clinton's use of her "clintonemail.com" email account for official government business because that subject was being covered in the discovery taken in Case No. 13-1363. Jan. 10, 2017 Plf.'s Notice of Revised Discovery Proposal, ¶ 4 (pp. 9-10) (ECF No. 50). Since then, Plaintiff has discovered new facts that necessitate questioning Clinton directly on this topic. On May 6, 2019, the State Department produced newly unredacted emails, dated January 10, 2009 through January 28, 2009, between the Secretary and General David Petraeus. Ex. 8 (Samuelson Ex. 3). In the emails, Clinton discussed changing her email account to the clintonemail.com domain. *Id.* Plaintiff should have the opportunity to ask Clinton directly about these emails and changes to her email use: specifically, (i) whether her use of a private email server was intended to stymie FOIA; (ii) whether the State Department's efforts to settle this case in late 2014 and 2015 amounted to bad faith; and (iii) whether the State Department has adequately searched for records responsive to Plaintiff's request. While Clinton provided written answers to some interrogatories, prepared by her attorneys, in Case No. 13-1363, they are incomplete and inadequate to answer the questions raised by the facts Plaintiff has

discovered since then and the subject areas permitted for discovery in this case. *See* Case No. 13-1363, Notice of Filing of Non-Party Hillary Rodham Clinton’s Responses to Plaintiff’s Interrogatories (ECF No. 137-1) and Notice of Filing of Non-Party Hillary Rodham Clinton’s Supplemental Responses to Plaintiff’s Interrogatories 1 and 24 (ECF No. 180-1). For example, Clinton has repeatedly stated that she believed that her emails should have been preserved by the “normal State Department processes for email retention,” but has yet to explain what her understanding of that process was. Case No. 13-1363, ECF No. 180-1 (Supplemental Response to Interrogatory No. 24). Clinton was the head of the agency, she was the user of the email account and she chose to use it exclusively for her work at the State Department. The aforementioned issues simply cannot be sufficiently addressed through the use of interrogatories and her deposition should be ordered.

Plaintiff also requests it be permitted to question Mills and Clinton about the preparation of talking points for former U.N. Ambassador Susan Rice’s September 16, 2012 media appearances, the advance dissemination or discussion of those talking points, the aftermath of Rice’s appearances, and the Department’s evolving understanding of the Benghazi attack. Not only will answering such questions help pinpoint whether the State Department adequately searched for records responsive to Plaintiff’s request, but, given the extraordinary circumstances of this case, it will help to preserve State’s integrity and “reassure the American people their government remains committed to transparency and the rule of law.” Dec. 6, 2018 Memo. at p. 8 (ECF No. 54).

B. INTERROGATORIES

i. Interrogatory to Department of State: Identify the State Department official whose FBI interview was marked as Hackett Deposition Exhibit 21, as well as the names

of the attorney, PST file, and FOIA request referenced in the third full paragraph on the first page therein. The information currently is redacted in the public version of the FBI's notes. *See* Ex. 4 (Hackett Ex. 21).

ii. Interrogatory to Department of State: Identify the "fifth document" identified by S/ES in the fall of 2014 but deemed unresponsive and, for each email recipient or sender, specify whether the email address belonged to a state.gov email account or a non-state.gov email account. *See* Ex. 3 (Hackett Ex. 17); *supra*, Jan. 2016 OIG Report at p. 15.

iii. Interrogatory to Department of Justice: Identify when Robert J. Prince first learned that (i) the State Department was going to request Clinton's emails and/or federal records in her possession; (ii) the State Department had requested Clinton's emails and/or federal records in her possession; and (iii) Clinton had provided copies of her emails to the State Department on December 5, 2014. Plaintiff does not seek attorney-client information but rather only the dates Prince learned of these facts.

C. DOCUMENT REQUESTS

i. Document Request to Department of State: An unredacted version of the September 29, 2012 email exchange marked as Hackett Exhibit 17. *See* Ex. 3.

ii. Document Request to Department of State: All emails sent by IPS, IPS Office of Policy and Programs Chief Patrick Scholl, or any other State Department official in the summer of 2013 concerning the directive described by Hackett during his deposition that no further "No Record Located" responses or responses similar to that effect should be issued in response to FOIA requests related to Clinton's emails. *See* Ex. 1 (Hackett Tr. at pp. 32-34).

iii. Document Request to Department of State: Records reviewed in response to the 2013 FOIA request submitted by Gawker Media for "all correspondence,

electronic or otherwise, between Hillary Clinton and Sidney Blumenthal, including any traffic to or from any accounts controlled by Hillary Clinton, including the email address

hdr22@clintonemail.com” from January 21, 2009 through February 1, 2013. Specifically, Plaintiff seeks all emails reviewed in response to the request in which Clinton is either a sender or recipient or which reference the use of Clinton’s “hdr22@clintonemail.com” email account and all emails reviewed in response to the request that stated “remember, you’re not supposed to use that e-mail” or used words to that effect. *See* Ex. 1 (Hackett Tr. at p. 93-94).

iv. Document Request to Clinton and her attorneys: The “after action memo” created by Heather Samuelson in or around December 2014, to memorialize the Clinton team’s search for and processing of the Clinton emails. *See* Ex. 7 (Samuelson Tr. at pp. 184, 188-89). Plaintiff only seeks factual portions that describe the review of Clinton’s emails. Plaintiff does not seek legal opinions or conclusions by counsel.

6. Plaintiff intends to complete the proposed depositions within 16 weeks of the Court’s order on Plaintiff’s proposed discovery plan.

7. Plaintiff requests that the Court shorten the time for Defendant and the Department of Justice to respond to Plaintiff’s written discovery to 14 days to ensure Plaintiff has all relevant information before conducting the depositions.

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Dated: August 21, 2019

Respectfully submitted,

JUDICIAL WATCH, INC.

/s/ Ramona R. Cotca

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Counsel for Plaintiff

Exhibit 1 – Hackett Tr. Excerpts



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Transcript of John Francis Hackett

Date: May 31, 2019

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

Planet Depos

Phone: 888.433.3767

Email: transcripts@planetdepos.com

www.planetdepos.com

Transcript of John Francis Hackett
Conducted on May 31, 2019

1 (1 to 4)

1	IN THE UNITED STATES DISTRICT COURT	1	A P P E A R A N C E S
2	FOR THE DISTRICT OF COLUMBIA	2	ON BEHALF OF PLAINTIFF:
3	- - - - -x	3	RAMONA COTCA, ESQUIRE
4	JUDICIAL WATCH, INC., :	4	LAUREN M. BURKE, ESQUIRE
5	Plaintiff, :	5	JUDICIAL WATCH
6	v. : Civil Action No.	6	425 Third Street, Southwest
7	U.S. DEPARTMENT OF : 14-01242(RCL)	7	Suite 800
8	STATE, :	8	Washington, DC 20024
9	Defendant. :	9	(202) 646-5199
10	- - - - -x	10	
11		11	ON BEHALF OF DEFENDANT:
12	Videotaped Deposition of JOHN FRANCIS HACKETT	12	JOSHUA E. GARDNER, ESQUIRE
13	Washington, DC	13	STEPHEN PEZZI, ESQUIRE
14	Friday, May 31, 2019	14	ROBERT PRINCE, ESQUIRE
15	10:00 a.m.	15	U.S. DEPARTMENT OF JUSTICE
16		16	FEDERAL PROGRAMS BRANCH
17		17	1100 L Street, Northwest
18		18	Washington, DC 20005
19		19	(202) 305-7583
20	Job No.: 238864	20	
21	Pages: 1 - 212	21	
22	Reported By: Debra Ann Whitehead	22	

1	Videotaped Deposition of JOHN FRANCIS	1	A P P E A R A N C E S C O N T I N U E D
2	HACKETT, held at the offices of:	2	ON BEHALF OF DEFENDANT:
3		3	MICHAEL LIEBERMAN, ESQUIRE
4	PLANET DEPOS	4	U.S. DEPARTMENT OF STATE
5	1100 Connecticut Avenue, Northwest	5	2201 C Street, Northwest
6	Suite 950	6	Washington, DC 20520
7	Washington, DC 20036	7	(202) 647-8042
8	(888) 433-3767	8	
9		9	ALSO PRESENT:
10		10	JEREMY DINEEN, Video Specialist
11		11	
12		12	
13	Pursuant to notice, before Debra Ann Whitehead,	13	
14	Notary Public in and for the District of Columbia.	14	
15		15	
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17		17	
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20		20	
21		21	
22		22	

Transcript of John Francis Hackett
Conducted on May 31, 2019

2 (5 to 8)

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<p style="text-align: center;">E X H I B I T S C O N T I N U E D</p> <p>HACKETT DEPOSITION EXHIBIT PAGE</p> <p>Exhibit 5 E-mail string ending from 78</p> <p>Mr. Visek, to Ms. Duval,</p> <p>9/11/14</p> <p>Exhibit 6 Letter from Ms. Weismann, to 83</p> <p>Office of Information Programs</p> <p>and Services, 12/6/12</p> <p>Exhibit 7 Letter from Ms. Walter, to 90</p> <p>Ms. Weismann, 5/10/13</p> <p>Exhibit 8 E-mail string ending from Ms. 97</p> <p>Grafeld, to Mr. Stein, et al.,</p> <p>9/25/14</p> <p>Exhibit 9 E-mail string ending from 102</p> <p>Mr. Hackett, to Mr. Stein,</p> <p>12/5/14</p> <p>Exhibit 10 Acknowledgement of Receipt 104</p> <p>Exhibit 11 Timeline of Events, Hillary 119</p> <p>Rodham Clinton Email</p> <p>Collection</p>	<p style="text-align: center;">P R O C E E D I N G S</p> <p>VIDEO SPECIALIST: Here begins Disk</p> <p>Number 1 in the videotaped deposition of John</p> <p>Francis Hackett; in the matter of Judicial Watch,</p> <p>Inc., V U.S. Department of State; in the U.S.</p> <p>District Court for the District of Columbia, Civil</p> <p>Action Number 14-01242.</p> <p>Today's date is May 31, 2019. The time</p> <p>on the video monitor is approximately 10:00 a.m.</p> <p>The videographer today is Jeremy Dineen,</p> <p>representing Planet Depos. This video deposition</p> <p>is taking place at the offices of Planet Depos,</p> <p>1100 Connecticut Avenue, Northwest, Suite 950, in</p> <p>Washington, DC.</p> <p>Would counsel please voice identify</p> <p>themselves and state whom they represent.</p> <p>MS. COTCA: Ramona Cotca, for Judicial</p> <p>Watch.</p> <p>MS. BURKE: Lauren Burke, for Judicial</p> <p>Watch.</p> <p>MR. GARDNER: Josh Gardner, with the</p> <p>United States Department of Justice.</p>

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<p style="text-align: right;">29</p> <p>1 Q How about in 2014, when you would have 2 been the Director of IPS?</p> <p>3 A My recollection, my only involvement 4 would have been making sure there were enough 5 resources available to produce documents.</p> <p>6 Q And by "resources," what do you mean?</p> <p>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.</p> <p>12 Q Okay. But you don't have specific 13 recollection as to the timing of when?</p> <p>14 A I -- I don't -- I don't recall.</p> <p>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?</p> <p>20 MR. GARDNER: Objection. Form.</p> <p>21 A Can you elaborate on what you mean by 22 "issue"?</p>	<p style="text-align: right;">31</p> <p>1 Q Did you raise your concerns to anybody at 2 that point, in June of 2013?</p> <p>3 A Yes.</p> <p>4 Q To whom?</p> <p>5 A Sheryl Walter; and also the Deputy 6 Assistant Secretary, Margaret Grafeld, who was 7 my -- one of my supervisors.</p> <p>8 Q When you first -- was that in 2013, the 9 time frame when you first raised it, your concern?</p> <p>10 A Yes.</p> <p>11 Q Okay. And what -- can you tell us what 12 those discussions were?</p> <p>13 A Some of those discussions were with the 14 department's attorneys.</p> <p>15 Q I'm asking with respect to Ms. Walter and 16 Ms. Grafeld.</p> <p>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.</p> <p>21 THE WITNESS: Okay.</p> <p>22 MR. GARDNER: If there were attorneys</p>
<p style="text-align: right;">30</p> <p>1 Q A concern or a focus by your department. 2 A Yes.</p> <p>3 Q Okay. When was that?</p> <p>4 A My concerns started in June of 2013.</p> <p>5 Q Okay. And can you tell us what those 6 concerns were?</p> <p>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.</p> <p>10 A My concerns were that IPS may have 11 been -- well, it's related to what prompted --</p> <p>12 Q Okay.</p> <p>13 A -- the concerns.</p> <p>14 Q Then let's start with what prompted.</p> <p>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.</p> <p>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?</p>	<p style="text-align: right;">32</p> <p>1 there and legal advice were discussed, I would 2 instruct you not to answer.</p> <p>3 THE WITNESS: Okay.</p> <p>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.</p> <p>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.</p> <p>16 Q And how did Ms. Walter respond?</p> <p>17 A My recollection is, she agreed with me.</p> <p>18 Q Okay. And what happened next, I guess, 19 if you...</p> <p>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</p>

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<p style="text-align: right;">33</p> <p>1 instruction, to our FOIA branch that I didn't want</p> <p>2 any, you know, No Record Located responses going</p> <p>3 out without them talking to us first.</p> <p>4 Q And that's to you and Ms. Walter?</p> <p>5 A Correct.</p> <p>6 Q Okay.</p> <p>7 A Other -- excuse me.</p> <p>8 Q I'm sorry. You said that you e-mailed?</p> <p>9 MR. GARDNER: Sorry. Objection. Form.</p> <p>10 Q You said you sent -- you sent out an</p> <p>11 alert via e-mail. Is that right?</p> <p>12 MR. GARDNER: Objection. Form.</p> <p>13 A My recollection was that I did. But it</p> <p>14 has been searched for in the past and nobody can</p> <p>15 find it, I believe.</p> <p>16 Q Okay. And who did you -- based on your</p> <p>17 recollection, who did you send the e-mail to?</p> <p>18 A My recollection was that I sent it to the</p> <p>19 head of our FOIA branch. And I have forgotten --</p> <p>20 Pat Scholl, I believe was his -- is his name.</p> <p>21 Q Just to him?</p> <p>22 A Yes. And he was going to redistribute it</p>	<p style="text-align: right;">35</p> <p>1 on -- in the classified systems that the Secretary</p> <p>2 might have produced. And I do recall that I think</p> <p>3 Tasha came back with the answer that they did not</p> <p>4 have any.</p> <p>5 There was a lot of confusion about</p> <p>6 exactly what that BlackBerry, you know, meant at</p> <p>7 that time.</p> <p>8 Q Let me just go back to the BlackBerry</p> <p>9 picture.</p> <p>10 Which picture was this that you -- that</p> <p>11 sparked your interest?</p> <p>12 A It was a photograph of the former</p> <p>13 Secretary sitting on an airplane; and I believe</p> <p>14 it -- you know, it's a big military-type airplane,</p> <p>15 in a row of seats, with a BlackBerry in her hand.</p> <p>16 Q And which paper was this?</p> <p>17 MR. GARDNER: Objection. Form.</p> <p>18 Q Or where did you see the photograph?</p> <p>19 Sorry.</p> <p>20 A I believe I saw the photograph on the</p> <p>21 WTOP's website.</p> <p>22 Q And this was after Secretary Clinton left</p>
<p style="text-align: right;">34</p> <p>1 to all of the analysts and through his -- his</p> <p>2 organization.</p> <p>3 Q So what happened after -- after that</p> <p>4 e-mail was sent out?</p> <p>5 A The other thing that we did, or I did at</p> <p>6 that time, was, we wanted to find out what this</p> <p>7 BlackBerry meant.</p> <p>8 So we tasked -- my recollection is, we</p> <p>9 verbally tasked Tasha Thian, the department's</p> <p>10 Records Manager at that time, to look into the</p> <p>11 BlackBerry.</p> <p>12 And I believe Tasha contacted Clarence</p> <p>13 Finney in the Secretary's office to ask him what</p> <p>14 he knew about the former Secretary's e-mailing</p> <p>15 habits.</p> <p>16 Q And what did she find out?</p> <p>17 A I don't recall exactly what she found</p> <p>18 out, but she didn't find out much.</p> <p>19 Tasha also contacted the part of the</p> <p>20 State Department that's part of the intelligence</p> <p>21 community, and Intelligence and Research Bureau,</p> <p>22 to ask to see if there were any classified e-mails</p>	<p style="text-align: right;">36</p> <p>1 the State Department?</p> <p>2 A Yes. It was in June of 2013.</p> <p>3 Q Were there any discussions at that time</p> <p>4 with Ms. Walter with respect to reaching out to</p> <p>5 Secretary Clinton about asking if she had e-mails,</p> <p>6 work-related e-mails, on her BlackBerry?</p> <p>7 A I don't recall any, no.</p> <p>8 Q Okay. And I believe I -- I don't know if</p> <p>9 I got the last name correct. But you said that</p> <p>10 you tasked it out to Tasha?</p> <p>11 A Thian.</p> <p>12 Q Thian. And she spoke with Mr. Finney.</p> <p>13 Is that Clarence Finney?</p> <p>14 A Correct.</p> <p>15 Q Okay. Do you know of anybody else that</p> <p>16 she spoke with to try to understand what this</p> <p>17 BlackBerry meant and more information about</p> <p>18 Secretary Clinton's e-mails, e-mail use?</p> <p>19 A I don't -- I don't recall.</p> <p>20 Q Did you ever speak with Mr. Finney about</p> <p>21 this issue?</p> <p>22 A Not in 2013, no.</p>

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<p>37</p> <p>1 Q Okay. When did you speak with Mr. Finney 2 about this issue?</p> <p>3 A I don't think I spent -- spoke to 4 Clarence about this until 2014.</p> <p>5 Q Can you narrow the time frame in 2014?</p> <p>6 A I would say the summer of 2014. Late 7 summer, maybe fall of 2014.</p> <p>8 Q Okay. What sparked that conversation?</p> <p>9 A And I want to make sure my timeline is 10 correct.</p> <p>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 --</p> <p>20 Q And are --</p> <p>21 A -- to the --</p> <p>22 Q I'm sorry. I cut you off. I'm going to</p>	<p>39</p> <p>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.</p> <p>4 Q Okay. Let me -- just to pinpoint the 5 time frame here.</p> <p>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.)</p> <p>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.</p> <p>14 A I mean, if your question is do I 15 recognize this document, no.</p> <p>16 Q Have you ever seen this document?</p> <p>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.</p> <p>22 Q Okay. That's fine, if you don't -- if</p>
<p>38</p> <p>1 let you finish.</p> <p>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.</p> <p>5 Q Okay. And whose -- is that Secretary 6 Clinton's e-mails?</p> <p>7 A Correct.</p> <p>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?</p> <p>13 A I don't recall.</p> <p>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?</p> <p>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.</p> <p>21 And I said, I'm not going, because I 22 don't know anything about the former Secretary's</p>	<p>40</p> <p>1 you haven't seen it.</p> <p>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.</p> <p>6 I just wanted to refer you to Page 3 at 7 the top.</p> <p>8 A Uh-huh.</p> <p>9 Q Where it says, August 11, 2014.</p> <p>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.</p> <p>16 Do you see that?</p> <p>17 A Yes.</p> <p>18 Q Okay. Is this the production that you 19 were referring to just a few moments ago?</p> <p>20 MR. GARDNER: Objection. Form. 21 Actually, objection. Foundation.</p> <p>22 A I can't tie it to a specific production.</p>

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<p style="text-align: right;">41</p> <p>1 I just know that in that time frame some documents</p> <p>2 relating specifically to Hillary Clinton were</p> <p>3 released to the Hill.</p> <p>4 Q To the Hill? That's my --</p> <p>5 A That's my memory of it.</p> <p>6 Q Okay. Do you remember as you sit here</p> <p>7 today -- well, I'll strike that. Never mind.</p> <p>8 A Okay.</p> <p>9 Q Thank you. But that is an August 11,</p> <p>10 2014. Around -- is it fair that it's around the</p> <p>11 same time frame that you recall her e-mails, some</p> <p>12 of her e-mails, being sent to the Hill?</p> <p>13 A Yes.</p> <p>14 Q Okay. Thank you.</p> <p>15 So who did go -- earlier you were talking</p> <p>16 about being asked to go to speak about Secretary</p> <p>17 Clinton's e-mails, that you refused to do because</p> <p>18 you didn't know anything about. And you said Mr.</p> <p>19 Finney also refused to do.</p> <p>20 Is that right?</p> <p>21 A I said that, I refuse to go.</p> <p>22 Q Okay.</p>	<p style="text-align: right;">43</p> <p>1 A Yes.</p> <p>2 Q Okay. And was -- can you tell me more</p> <p>3 about those discussions?</p> <p>4 MR. GARDNER: Objection. Form.</p> <p>5 A Specific --</p> <p>6 Q Specifically about your June 2013 concern</p> <p>7 after you saw Secretary Clinton's picture with</p> <p>8 holding a BlackBerry.</p> <p>9 A My discussion with Margaret Grafeld might</p> <p>10 be -- might have involved department lawyers.</p> <p>11 Q Okay.</p> <p>12 A So...</p> <p>13 MR. GARDNER: So before you disclose</p> <p>14 that, we can take a break. Obviously we can</p> <p>15 consult and see if that's information we can</p> <p>16 provide or whether it's privileged.</p> <p>17 MS. COTCA: Okay. We can do that.</p> <p>18 Do you want us to step out?</p> <p>19 MR. GARDNER: Why don't we just continue</p> <p>20 going, and then we can circle back. Unless that's</p> <p>21 going to disrupt you?</p> <p>22 MS. COTCA: I'd rather stop now.</p>
<p style="text-align: right;">42</p> <p>1 A I -- I don't know what Mr. Finney ended</p> <p>2 up doing.</p> <p>3 I only recall Clarence wanting me to go</p> <p>4 to support him. But he didn't know anything</p> <p>5 about, you know, her e-mail setup.</p> <p>6 Q Okay. Can you tell me more of where you</p> <p>7 were supposed to go or where you were invited to</p> <p>8 go to speak about her e-mails?</p> <p>9 A My recollection is that Public Affairs</p> <p>10 asked us to attend kind of a background briefing</p> <p>11 with them to discuss Hillary Clinton's e-mails.</p> <p>12 Q Okay. Do you know who in Public Affairs</p> <p>13 asked you to do that?</p> <p>14 A I don't recall.</p> <p>15 Q Do you recall any of the individuals</p> <p>16 involved in that request?</p> <p>17 A I have forgotten -- you know, I have</p> <p>18 forgotten their names.</p> <p>19 Q Okay. And then I want to go back now to</p> <p>20 your discussions with Ms. Walter.</p> <p>21 You also said you had discussions with</p> <p>22 Ms. Grafeld. Is that correct?</p>	<p style="text-align: right;">44</p> <p>1 MR. GARDNER: Do you want --</p> <p>2 MS. COTCA: Yes.</p> <p>3 MR. GARDNER: -- to take a morning break?</p> <p>4 MS. COTCA: Yes.</p> <p>5 MR. GARDNER: Okay. We can do that.</p> <p>6 VIDEO SPECIALIST: We are going off the</p> <p>7 record at 10:49.</p> <p>8 (A recess was taken.)</p> <p>9 VIDEO SPECIALIST: We are back on the</p> <p>10 record at 11:05.</p> <p>11 BY MS. COTCA:</p> <p>12 Q Mr. Hackett, you have had a chance to</p> <p>13 speak with your lawyers. Before the break I asked</p> <p>14 you about discussions that you had with Ms., is</p> <p>15 it, Garfeld?</p> <p>16 A Grafeld.</p> <p>17 Q Grafeld. I'm sorry. Thank you.</p> <p>18 Are you able to answer the question</p> <p>19 without divulging attorney-client privilege?</p> <p>20 MR. GARDNER: We would instruct Mr.</p> <p>21 Hackett not to answer the question. That question</p> <p>22 does call for the disclosure of information</p>

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<p>53</p> <p>1 MR. GARDNER: Objection. Lack of</p> <p>2 foundation.</p> <p>3 Q You may answer the question.</p> <p>4 A Is this exhibit all one e-mail chain?</p> <p>5 Q It was produced as one document to us by</p> <p>6 the State Department in this case.</p> <p>7 A So I – I mean, I don't know – I mean,</p> <p>8 it's a back and forth, obviously. But I don't</p> <p>9 know which topic specifically it relates to.</p> <p>10 There's mention of the CREW request. And</p> <p>11 there's mention of me, you know, talking – Peggy</p> <p>12 asking me for all the open Hillary Clinton cases</p> <p>13 relating specifically to her e-mails.</p> <p>14 So there's a -- multiple topics are</p> <p>15 covered here.</p> <p>16 Q Sure. No. Is it -- just, it's an e-mail</p> <p>17 string just identifying, just for the record, Gene</p> <p>18 Smilansky at the top. And it starts with the</p> <p>19 first e-mail at the top August 8, 2013, at 10:21</p> <p>20 p.m., from Mr. Smilansky, addressed to Karen</p> <p>21 Finnegan and Sheryl Walter.</p> <p>22 Is that -- do you see that on the first</p>	<p>55</p> <p>1 e-mails, we should probably -- you know, we need</p> <p>2 to look at all the requests relating to, you</p> <p>3 know -- that might be, you know, responsive.</p> <p>4 Q Okay.</p> <p>5 A Because they were -- because they were</p> <p>6 just sitting there.</p> <p>7 Q What do you mean by, "because they were</p> <p>8 just sitting there"?</p> <p>9 A I believe they hadn't been responded to</p> <p>10 yet, depending on when they came through.</p> <p>11 Q Okay. What about -- well, let me -- if</p> <p>12 you can look on Page 2 and Page 3 of the document.</p> <p>13 And it looks like there's communications</p> <p>14 about list of open cases and closed cases. And in</p> <p>15 one e-mail it says of the 17 cases, 10 are closed;</p> <p>16 and then of the remaining 7 open cases, it lists 2</p> <p>17 cases that specifically mention e-mails.</p> <p>18 Do you see that?</p> <p>19 A Which page is that on?</p> <p>20 Q Page 3.</p> <p>21 MR. GARDNER: On Page 3.</p> <p>22 A Okay.</p>
<p>54</p> <p>1 page of the document at the top?</p> <p>2 A Yes.</p> <p>3 Q Okay. Okay. If you could look on Page 4</p> <p>4 of the document. Which I think you were already</p> <p>5 there. An e-mail from Ms. Grafeld, to you and Ms.</p> <p>6 Sheryl -- Sheryl Walter, asking you -- or saying</p> <p>7 that you mentioned yesterday requests for</p> <p>8 Secretary Clinton's e-mails.</p> <p>9 Can you tell me about what -- what that</p> <p>10 discussion was with respect to her e-mails that</p> <p>11 she is referring to in that e-mail to you?</p> <p>12 MR. GARDNER: Objection. Form.</p> <p>13 A I don't recall specifically about the</p> <p>14 conversation she is referring to. I just -- I</p> <p>15 don't recall.</p> <p>16 I just remember that after June 2013, we</p> <p>17 started looking at, you know, again, all of --</p> <p>18 over that summer looking at, as the -- we were</p> <p>19 trying to get the ground truth of what, you</p> <p>20 know -- what was the universe of Hillary Clinton's</p> <p>21 e-mailing.</p> <p>22 We started looking at, well, if there are</p>	<p>56</p> <p>1 MR. GARDNER: You've got it there.</p> <p>2 A Yes, I see that.</p> <p>3 Q Okay. Now, not all of these cases,</p> <p>4 though, or all of these requests, are -- were all</p> <p>5 of these requests not yet in litigation?</p> <p>6 MR. GARDNER: Objection. Lack of</p> <p>7 foundation.</p> <p>8 Q As far as you know.</p> <p>9 A I don't know. I don't know that.</p> <p>10 Q Okay. And then -- well, then</p> <p>11 specifically now on Page 2 of the document, there</p> <p>12 is an e-mail about a Judicial Watch case, with the</p> <p>13 Case Number 2013-772, in front of Judge</p> <p>14 Kollar-Kotelly.</p> <p>15 Do you see that?</p> <p>16 A Yes.</p> <p>17 Q Okay. So what did your office do with</p> <p>18 respect to -- in that case with respect to</p> <p>19 resolving this e-mail issue in responding to</p> <p>20 Judicial Watch?</p> <p>21 MR. GARDNER: Objection. Form.</p> <p>22 A I mean, I don't recall. I don't recall</p>

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<p>57</p> <p>1 this case.</p> <p>2 If -- I mean, if this is the case we</p> <p>3 called the Clinton Foundation case, you know, I</p> <p>4 would agree with Karen, I don't remember that</p> <p>5 involving Hillary Clinton's e-mail.</p> <p>6 Q Well, are you familiar with that request?</p> <p>7 A I -- I don't, you know. It's not off the</p> <p>8 top of my head anymore.</p> <p>9 Q Okay. Are you aware that it asks</p> <p>10 specifically for e-mails?</p> <p>11 MR. GARDNER: Objection. Lack of</p> <p>12 foundation.</p> <p>13 A I didn't recall that.</p> <p>14 Q Okay.</p> <p>15 So what was the resolution in how to</p> <p>16 respond to these FOIA requests that are noted in</p> <p>17 this e-mail string?</p> <p>18 A I don't -- I mean, I don't recall. I</p> <p>19 mean, if we were -- if we were doing a search, and</p> <p>20 an e-mail -- certainly we were still investigating</p> <p>21 about her, you know, e-mail and her e-mail setup.</p> <p>22 But if something came up in a search, we</p>	<p>59</p> <p>1 how does this impact -- how does this issue impact</p> <p>2 or this investigation impact our current cases</p> <p>3 that relate to Secretary Clinton's e-mails?</p> <p>4 MR. GARDNER: Objection. Lack of</p> <p>5 foundation.</p> <p>6 A Well, I mean, some of those conversations</p> <p>7 were with department attorneys.</p> <p>8 MR. GARDNER: So you can obviously</p> <p>9 disclose those that did not involve the attorneys.</p> <p>10 Otherwise, I would instruct you not to answer</p> <p>11 based on privilege.</p> <p>12 A My recollection, again, at that time was,</p> <p>13 we did have people asking specifically for e-mail,</p> <p>14 and we did have cases in litigation. So we</p> <p>15 continued to have conversations about did or did</p> <p>16 she not have, you know, e-mail.</p> <p>17 Q Okay.</p> <p>18 A And around this, I believe it was late</p> <p>19 2013 or maybe in 2014, there was another case</p> <p>20 where -- so we -- we might see snippets of things</p> <p>21 that we -- there was a -- an e-mail address that</p> <p>22 was produced in litigation. I can't remember what</p>
<p>58</p> <p>1 would certainly -- and it was responsive, we would</p> <p>2 produce it.</p> <p>3 Q So you're still -- I am just trying to</p> <p>4 understand --</p> <p>5 A Sure.</p> <p>6 Q -- what happened.</p> <p>7 So you are still investigating the issue</p> <p>8 in August of 2013. Correct?</p> <p>9 A Correct.</p> <p>10 Q Okay. And at the same time you -- at</p> <p>11 least in the Judicial Watch case, that was already</p> <p>12 in litigation. We know that because it has a case</p> <p>13 number.</p> <p>14 The State Department is still continuing</p> <p>15 to respond to the requestor. Correct?</p> <p>16 MR. GARDNER: Objection. Form.</p> <p>17 A I -- I mean, I -- I don't recall what the</p> <p>18 specific production was, and -- for this, you</p> <p>19 know, litigation.</p> <p>20 Q Okay. And that's fair. I'm just trying</p> <p>21 to understand.</p> <p>22 Were there conversations at that time,</p>	<p>60</p> <p>1 case that was. But we didn't know what that, you</p> <p>2 know, meant.</p> <p>3 Q Okay. What e-mail address was produced</p> <p>4 in litigation in early 2014?</p> <p>5 A It was a Hillary Clinton e-mail address.</p> <p>6 Or let me -- let me correct that and say</p> <p>7 there -- in the documents that were gathered in --</p> <p>8 and -- and I can't remember whether they were</p> <p>9 produced to the requestor, there -- there -- there</p> <p>10 was a discussion about a Hillary Clinton e-mail</p> <p>11 address within the documents that were gathered.</p> <p>12 Q Just to make sure I understand exactly</p> <p>13 what you're saying.</p> <p>14 It's not an e-mail address that you</p> <p>15 recall, but it's a discussion about an e-mail</p> <p>16 account?</p> <p>17 Do I have that right, or do I have that</p> <p>18 wrong?</p> <p>19 A My recollection is, it was the actual</p> <p>20 e-mail account and people -- someone reacting and</p> <p>21 saying, you can't -- you know, you shouldn't use</p> <p>22 that e-mail account.</p>

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<p style="text-align: right;">65</p> <p>1 investigate, or what did your office do to</p> <p>2 investigate whether that e-mail was associated</p> <p>3 with responsive records to FOIA requests relevant</p> <p>4 to Secretary Clinton's e-mails?</p> <p>5 A I don't -- I don't recall. I'm -- I</p> <p>6 don't recall.</p> <p>7 Q Okay. I want to just change focus a</p> <p>8 little bit to fall of 2014, when you said that</p> <p>9 there was a request from the Public Affairs for a</p> <p>10 briefing about Secretary Clinton's e-mails.</p> <p>11 A Okay.</p> <p>12 Q Have you ever had a request before from</p> <p>13 the Public Affairs office for a similar type</p> <p>14 briefing?</p> <p>15 MR. GARDNER: Objection. Form.</p> <p>16 A Now, during that time, in 2014?</p> <p>17 Q From 2013 -- when you were at the State</p> <p>18 Department, in your role as Director of IPS.</p> <p>19 A Yes.</p> <p>20 Q When was that?</p> <p>21 A I attended a meeting. I can't remember</p> <p>22 the year. It was probably 2016 or late 2015,</p>	<p style="text-align: right;">67</p> <p>1 Did -- was it usual for Public Affairs</p> <p>2 office to ask for a briefing about e-mails of a</p> <p>3 State Department official?</p> <p>4 MR. GARDNER: Objection. Lack of</p> <p>5 foundation.</p> <p>6 A Well -- and I don't want to -- Public</p> <p>7 Affairs, I thought, was asking because of the</p> <p>8 connection with this production to the Hill; and</p> <p>9 they realized that these items were going to be,</p> <p>10 you know, released, and more than likely released</p> <p>11 to the public by the Benghazi committee.</p> <p>12 So they wanted to be prepared to answer</p> <p>13 questions about the former Secretary's</p> <p>14 records/e-mails.</p> <p>15 Q Okay. Okay. In -- so same time frame,</p> <p>16 in the fall of 2014. Is that the same -- had the</p> <p>17 State Department at that point requested records</p> <p>18 be returned from Secretary Clinton?</p> <p>19 A Shortly after that.</p> <p>20 Q Shortly after that?</p> <p>21 A I believe the next month.</p> <p>22 Q Okay. Are you referring to the letter</p>
<p style="text-align: right;">66</p> <p>1 before I left, relating to Colin Powell's e-mails</p> <p>2 that were -- the IG was going to release.</p> <p>3 Q Okay. I should have been more focused in</p> <p>4 my question.</p> <p>5 I meant to ask you prior to, beforehand,</p> <p>6 had you had any types of similar requests from</p> <p>7 Public Affairs office?</p> <p>8 A Prior to?</p> <p>9 Q Prior to summer of 2014.</p> <p>10 A No.</p> <p>11 Q Okay. Was that an unusual request?</p> <p>12 MR. GARDNER: Objection. Lack of</p> <p>13 foundation.</p> <p>14 A I mean, I can't speak to whether it</p> <p>15 was -- it was -- it was my first one. But, you</p> <p>16 know, I can't say whether it's unusual or not.</p> <p>17 Q Okay. And do you know why the Public</p> <p>18 Affairs office asked for that briefing?</p> <p>19 A My recollection is that they just wanted</p> <p>20 background on her e-mails.</p> <p>21 Q Okay. And maybe you may not be able to</p> <p>22 answer this. But if you can, I'll ask it.</p>	<p style="text-align: right;">68</p> <p>1 that Under Secretary Patrick Kennedy had sent out</p> <p>2 to the former Secretaries?</p> <p>3 A Correct.</p> <p>4 Q Okay. I'm -- do you know when -- in</p> <p>5 leading up to that letter, do you know when the</p> <p>6 first request was made by the department to</p> <p>7 Secretary Clinton for any e-mails that she might</p> <p>8 have from the State Department in her personal</p> <p>9 e-mail account?</p> <p>10 A Since leaving, I know there have been</p> <p>11 documents released saying that the department</p> <p>12 approached Secretary Clinton in June or July, over</p> <p>13 that summer, which was a surprise to me. Because</p> <p>14 I hadn't -- I did not know until the drafts of the</p> <p>15 letters to go out to the former Secretaries in the</p> <p>16 fall of 2014 that we were going to approach her</p> <p>17 and the former Secretaries.</p> <p>18 Q Okay. So you're -- so the first time --</p> <p>19 and I'm interested in what you were at the time,</p> <p>20 so I thank you for clarifying that.</p> <p>21 A Okay.</p> <p>22 Q So then going back to the drafts of these</p>

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<p style="text-align: right;">85</p> <p>1 Q June. Thank you.</p> <p>2 A 2013.</p> <p>3 Q In June 2013.</p> <p>4 Were there any discussions within your</p> <p>5 office or with State Department officials about</p> <p>6 what efforts to undertake to see if there are</p> <p>7 e-mails, e-mail accounts associated with Secretary</p> <p>8 Clinton in response to the CREW request?</p> <p>9 MR. GARDNER: To the extent you can</p> <p>10 answer that question without disclosing privileged</p> <p>11 information, you may do so. Otherwise, I would</p> <p>12 instruct you not to answer.</p> <p>13 A Well, as I mentioned previously, you</p> <p>14 know, in June 2013, after the photograph came out,</p> <p>15 we tried to figure out what that meant, the former</p> <p>16 Secretary holding a BlackBerry; and also what</p> <p>17 addresses she might have had, or did she have</p> <p>18 private, you know, or government -- a private or</p> <p>19 government account.</p> <p>20 At the same time -- and I think it's</p> <p>21 reflected in Exhibit 2 -- there were discussions</p> <p>22 about, has the CREW request been responded to yet.</p>	<p style="text-align: right;">87</p> <p>1 Q Have you -- in preparation for today,</p> <p>2 have you reviewed the State Department's response</p> <p>3 to the CREW request?</p> <p>4 A I don't -- I don't recall whether it was</p> <p>5 shown to me or not.</p> <p>6 Q Okay.</p> <p>7 A I think it was advised that a request had</p> <p>8 gone out.</p> <p>9 Q You mean a response?</p> <p>10 A A response, excuse me.</p> <p>11 Q Sure. Not a problem.</p> <p>12 Well, I can't find it right now, but we</p> <p>13 can talk about it. Were you aware at the time --</p> <p>14 and the time frame is June through August of 2013,</p> <p>15 this time frame -- that the request went out</p> <p>16 saying there were no responsive records, in</p> <p>17 response to the CREW request?</p> <p>18 A No.</p> <p>19 Q Okay.</p> <p>20 A I don't recall it. I -- I did not</p> <p>21 recall -- remember seeing the response going out</p> <p>22 when it went out.</p>
<p style="text-align: right;">86</p> <p>1 But I wasn't -- you know, I wasn't involved in the</p> <p>2 response to the CREW request.</p> <p>3 And I will tell you that when the IG</p> <p>4 started looking at the CREW request case, there</p> <p>5 was some uncertainty, you know, whether or not</p> <p>6 there -- a response had even been, you know,</p> <p>7 issued at all. I'm now told that there -- there</p> <p>8 was a response that had been, you know, issued.</p> <p>9 But, again, that photograph kind of</p> <p>10 stirred up everything, and -- and we were asking</p> <p>11 has -- and I think Sheryl says it in Exhibit 2 --</p> <p>12 has the response to -- you know, what happened to</p> <p>13 the CREW request.</p> <p>14 So I think there are two pieces to that;</p> <p>15 there's the CREW request, but also our hunt for --</p> <p>16 again, for the ground truth of what's behind</p> <p>17 Hillary Clinton's BlackBerry, what's behind this</p> <p>18 address we found in -- in the Gawker case.</p> <p>19 Q And it was Ms. Walter who sent the</p> <p>20 response to the CREW request? Is that your</p> <p>21 understanding?</p> <p>22 A I don't recall.</p>	<p style="text-align: right;">88</p> <p>1 Q Okay. Okay. Do you see the e-mail from</p> <p>2 Ms. Finnegan on Exhibit 2, on the first page,</p> <p>3 August -- dated August 7, 2013, to Ms. Walter, and</p> <p>4 cc'ing Gene Smilanksy?</p> <p>5 MR. GARDNER: Sorry. Which e-mail?</p> <p>6 August 7?</p> <p>7 MS. COTCA: It's the second e-mail from</p> <p>8 the top.</p> <p>9 MR. GARDNER: Okay.</p> <p>10 Q Ms. Finnegan's e-mail to Ms. Walter,</p> <p>11 August 7, 2013, at 5:12.</p> <p>12 Do you see that?</p> <p>13 A Yes.</p> <p>14 Q Okay. Do you see that -- where Ms.</p> <p>15 Finnegan says that, Gene reports that we did</p> <p>16 respond to this request?</p> <p>17 Were there -- did you at that point in</p> <p>18 August, when these discussions were had, did you</p> <p>19 recall being informed, even if it was after the</p> <p>20 fact, that a No Records response had been sent out</p> <p>21 to CREW?</p> <p>22 A I don't recall.</p>

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<p style="text-align: right;">93</p> <p>1 MR. GARDNER: Objection. Form.</p> <p>2 A -- you know, yeah, I mean, I don't know</p> <p>3 what to say.</p> <p>4 Q Okay. What about in -- when Secretary</p> <p>5 Clinton's e-mail appeared in the Gawker case; did</p> <p>6 you think it would have been appropriate at that</p> <p>7 time to send a corrected response to CREW?</p> <p>8 A I can't speculate.</p> <p>9 Q Well, as you sit here today.</p> <p>10 MR. GARDNER: Objection. Form.</p> <p>11 A Well, I mean, again, I don't think we</p> <p>12 knew what that -- what that meant, that address</p> <p>13 meant.</p> <p>14 Q Well, you knew that the address meant</p> <p>15 that she e-mailed from that account for State</p> <p>16 Department work. Correct?</p> <p>17 A Not relating to the Gawker case, or</p> <p>18 whatever case that was.</p> <p>19 We knew that some employees at times had</p> <p>20 a personal e-mail address for Hillary Clinton, and</p> <p>21 that they might forward something to her at times.</p> <p>22 That's the only thing that we knew.</p>	<p style="text-align: right;">95</p> <p>1 record at 12:29.</p> <p>2 (A recess was taken.)</p> <p>3 VIDEO SPECIALIST: We are going back on</p> <p>4 the record at 13:24.</p> <p>5 BY MS. COTCA:</p> <p>6 Q Mr. Hackett, I believe we left off</p> <p>7 talking about the Gawker request.</p> <p>8 My question is, after you found out about</p> <p>9 Secretary Clinton's personal e-mail account in the</p> <p>10 Gawker case, in or around January 2014, what did</p> <p>11 you do as the Director of IPS to ensure that her</p> <p>12 e-mails were searched in response to FOIA?</p> <p>13 A A couple of things.</p> <p>14 I wasn't Director yet. I was still</p> <p>15 Deputy Director in January.</p> <p>16 Q Of 2014?</p> <p>17 A 2014.</p> <p>18 Q Thank you for that.</p> <p>19 A It was spring of 2014 I became Acting</p> <p>20 Director.</p> <p>21 And, again, you know, we weren't sure</p> <p>22 what this address meant. And I think we were --</p>
<p style="text-align: right;">94</p> <p>1 Q Who were the employees that you knew?</p> <p>2 A I don't know. Whoever was in that, you</p> <p>3 know, e-mail chain in the case.</p> <p>4 At that time I did not know who those</p> <p>5 employees were. I mean, the -- the gist of that</p> <p>6 e-mail I remember was one person saying to the</p> <p>7 other person, don't use that -- remember, you're</p> <p>8 not supposed to use that e-mail. But I don't</p> <p>9 remember who those people were.</p> <p>10 I think one of them might have been in</p> <p>11 Public Affairs.</p> <p>12 Q Okay.</p> <p>13 MR. GARDNER: I don't want to cut you off</p> <p>14 from a line of questioning, but we have been going</p> <p>15 for over an hour, it's about lunch time. Would</p> <p>16 now be a good time to break?</p> <p>17 MS. COTCA: That's fine. I'm fine to</p> <p>18 break any time.</p> <p>19 Would you like to break now?</p> <p>20 THE WITNESS: Sure.</p> <p>21 MS. COTCA: Okay.</p> <p>22 VIDEO SPECIALIST: We are going off the</p>	<p style="text-align: right;">96</p> <p>1 my recollection is, we were still trying to gather</p> <p>2 information about -- at least IPS was, about what</p> <p>3 this e-mail address, you know, meant.</p> <p>4 Again, the records I wasn't directly</p> <p>5 involved in. I believe the Records Managers</p> <p>6 were -- whether it was Tasha Thian or maybe later</p> <p>7 Bill Fischer -- might have been trying to pursue</p> <p>8 to find out what, you know, that e-mail address</p> <p>9 meant.</p> <p>10 But we certainly did not know if there</p> <p>11 were any records behind it. We just knew it was</p> <p>12 an e-mail address and people did send her stuff,</p> <p>13 at that time we thought, on occasion.</p> <p>14 Q Okay. And for those e-mails that would</p> <p>15 be sent on occasion, is there anything that you</p> <p>16 did to make sure that those were captured in</p> <p>17 searches responding to FOIA?</p> <p>18 A At that time, no.</p> <p>19 Q Okay. When did you begin doing something</p> <p>20 about it, to ensure that they were being captured</p> <p>21 in response to FOIA?</p> <p>22 A I mean, we -- we didn't know what that</p>

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<p style="text-align: right;">97</p> <p>1 e-mail address, you know, meant. We didn't -- I</p> <p>2 mean, you know, I'm talking about this in, you</p> <p>3 know, hindsight, having the know.</p> <p>4 But then in January 2014, or whenever the</p> <p>5 Gawker case, this kind of one address popped out,</p> <p>6 we still didn't know what that meant.</p> <p>7 And my recollection is that there were</p> <p>8 either the Office of Legal Advisor or my</p> <p>9 management were handling the -- helping us handle</p> <p>10 to try to get, you know, to the ground truth of</p> <p>11 what that, you know, e-mail address meant.</p> <p>12 But down at my level, you know, we were</p> <p>13 going through Clarence, or Mr. Finney, Clarence</p> <p>14 Finney, in the Secretary's office. Clarence was</p> <p>15 talking to the IT people in the Secretary's</p> <p>16 office.</p> <p>17 But that's the only thing -- we were</p> <p>18 doing the only things we could at our level in --</p> <p>19 in the big State Department.</p> <p>20 Q Okay.</p> <p>21 MS. COTCA: Mark this.</p> <p>22 (Hackett Deposition Exhibit 8 marked for</p>	<p style="text-align: right;">99</p> <p>1 A I believe so, yes.</p> <p>2 Q Okay. Why do you believe so?</p> <p>3 A I mean, this is September 2014. And I --</p> <p>4 I believe there -- you know, there were probably</p> <p>5 discussions about the Secretary's records going on</p> <p>6 then.</p> <p>7 Q Okay. Do you recall this e-mail?</p> <p>8 Or does this document refresh your</p> <p>9 recollection about the conversations that's</p> <p>10 reflected in this document?</p> <p>11 A I -- I -- it's redacted. I -- I don't</p> <p>12 recall what the content is, no.</p> <p>13 Q Okay. Do you know what the "fact</p> <p>14 finding" reference in Ms. Grafeld's e-mail refers</p> <p>15 to?</p> <p>16 MR. GARDNER: To the extent you can</p> <p>17 answer that question without divulging privileged</p> <p>18 information, you may do so. Otherwise, I would</p> <p>19 instruct you not to answer.</p> <p>20 A I don't recall.</p> <p>21 Q Is it fair to say that the fact finding</p> <p>22 on this topic refers to Secretary Clinton's</p>
<p style="text-align: right;">98</p> <p>1 identification.)</p> <p>2 A Okay.</p> <p>3 Q Have you had a chance to review it?</p> <p>4 A Yes.</p> <p>5 Q Okay. This is Exhibit 8. And it appears</p> <p>6 to be an e-mail string, with the top e-mail from</p> <p>7 Margaret P. Grafeld, to Eric Stein, Celeste</p> <p>8 Houser-Jackson, you, and William P. Fischer.</p> <p>9 Is that accurate?</p> <p>10 A Correct.</p> <p>11 Q Okay. And there are additional</p> <p>12 individuals on the cc line that I didn't read out.</p> <p>13 The subject matter is S records. Do you</p> <p>14 see that?</p> <p>15 A Yes.</p> <p>16 Q Okay. Does that refer to Secretary</p> <p>17 Clinton records?</p> <p>18 A Yeah.</p> <p>19 MR. GARDNER: Object.</p> <p>20 A Well --</p> <p>21 MR. GARDNER: Objection. Lack of</p> <p>22 foundation.</p>	<p style="text-align: right;">100</p> <p>1 records, based on the Subject line of the e-mail?</p> <p>2 MR. GARDNER: Objection. Lack of</p> <p>3 foundation.</p> <p>4 A I -- I can't say. I mean, it could be</p> <p>5 Secretary Clinton's records, or it could be about</p> <p>6 record keeping in the Secretary's office which</p> <p>7 was, you know, a discussion around that time as</p> <p>8 well.</p> <p>9 Q Fast-forward a few months from this time</p> <p>10 period.</p> <p>11 Secretary Clinton did in fact return</p> <p>12 records to the State Department in December.</p> <p>13 Correct?</p> <p>14 A Correct.</p> <p>15 Q Okay. Can you tell us -- well, were you</p> <p>16 involved in -- were you involved in picking up and</p> <p>17 the collection of Secretary Clinton's e-mails from</p> <p>18 her attorneys?</p> <p>19 A The actual physical picking up of them?</p> <p>20 Q No. Whatever process would be laid out</p> <p>21 how to pick it up, how to pick them up, et cetera.</p> <p>22 A The organization that I directed at that</p>

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<p>121</p> <p>1 A Okay.</p> <p>2 Q -- to still same time frame, but to what</p> <p>3 was happening in this lawsuit during this time.</p> <p>4 A Okay.</p> <p>5 Q Do you -- do you recall when you were</p> <p>6 first informed of this lawsuit?</p> <p>7 A It was probably when it came in, in 2014.</p> <p>8 Q Okay. Do you recall when that would have</p> <p>9 been?</p> <p>10 A I don't recall.</p> <p>11 Q Okay.</p> <p>12 A I just remember it -- it coming in. It</p> <p>13 was very similar to your other case relating to</p> <p>14 the UN and this issue.</p> <p>15 Q And you're -- you're speaking about a</p> <p>16 previous FOIA request that requested pretty much</p> <p>17 identical records, but from a different office?</p> <p>18 A Correct.</p> <p>19 Q From the State Department. Correct?</p> <p>20 A Correct. Yes.</p> <p>21 MS. COTCA: Can you mark this as</p> <p>22 Exhibit...</p>	<p>123</p> <p>1 Q Of which department?</p> <p>2 A Of IPS.</p> <p>3 Q Okay. So that's the Litigation Division</p> <p>4 that you earlier discussed in saying once a</p> <p>5 Complaint is filed within IPS, it would go into</p> <p>6 a -- the Litigation Branch, I think you referred</p> <p>7 to as?</p> <p>8 A Correct.</p> <p>9 Q Okay. That's the same branch that we're</p> <p>10 talking about?</p> <p>11 A It says down here at the bottom, Chief,</p> <p>12 Litigation and Appeals Branch.</p> <p>13 Q Okay. Thank you.</p> <p>14 Do you know who Cristina is who's</p> <p>15 referenced in this e-mail?</p> <p>16 A I -- Cristina was one of the analysts in</p> <p>17 the Litigation and Appeals Branches.</p> <p>18 Q Okay. Then how about Monica?</p> <p>19 Where it says, Monica will be handling</p> <p>20 this case for IPS and Jamie for L/M, who is the</p> <p>21 "Monica"?</p> <p>22 A I have forgotten Monica's last name. But</p>
<p>122</p> <p>1 MR. GARDNER: Exhibit 12.</p> <p>2 MS. COTCA: Exhibit 12. Thank you.</p> <p>3 (Hackett Deposition Exhibit 12 marked for</p> <p>4 identification.)</p> <p>5 A Okay.</p> <p>6 Q Have you had a chance to review it?</p> <p>7 A Yes.</p> <p>8 Q Okay. And this appears to be an e-mail</p> <p>9 from Susan Weetman, to several people and another</p> <p>10 e-mail address, but also to you.</p> <p>11 Is that -- is that fair?</p> <p>12 A Yes.</p> <p>13 Q Okay. And this appears to be a note --</p> <p>14 her notifying you of this new Complaint that was</p> <p>15 filed in this case. Is that right?</p> <p>16 A Yes.</p> <p>17 Q Okay. Is this the first -- would this</p> <p>18 have been the first notice you would have received</p> <p>19 about this -- this case once it had been filed?</p> <p>20 A Yes.</p> <p>21 Q Okay. Who is Ms. Weetman, Susan Weetman?</p> <p>22 A She works in the Litigation Division.</p>	<p>124</p> <p>1 she -- again, she was another analyst who was</p> <p>2 handling this case.</p> <p>3 Q Okay. And then Jamie; do you know who</p> <p>4 that is?</p> <p>5 A Jamie would be Jamie Bair.</p> <p>6 Q Okay.</p> <p>7 A An attorney in the Office of Legal</p> <p>8 Advisor.</p> <p>9 Q Okay. Then once you received the</p> <p>10 notification about the Complaint having been</p> <p>11 filed, what did you do next with respect to the</p> <p>12 handling of this case?</p> <p>13 A I mean, I -- I don't recall. I mean,</p> <p>14 I -- this was being handled by folks in the</p> <p>15 Litigation Branch, and...</p> <p>16 Q But the Litigation Branch was still</p> <p>17 within your department. Correct?</p> <p>18 A Correct.</p> <p>19 Q Okay.</p> <p>20 A But the Litigation Branch is in a --</p> <p>21 within another division, and that person worked</p> <p>22 for me.</p>

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<p style="text-align: right;">133</p> <p>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</p>	<p style="text-align: right;">135</p> <p>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</p>
<p style="text-align: right;">134</p> <p>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</p>	<p style="text-align: right;">136</p> <p>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.</p>

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<p>137</p> <p>1 Q That was when, in August or September</p> <p>2 time frame?</p> <p>3 A I believe August --</p> <p>4 Q Okay.</p> <p>5 A -- that that all happened.</p> <p>6 But I think he was alerting me more as,</p> <p>7 you know, kind of a PR heads-up that this was</p> <p>8 about to happen.</p> <p>9 Q Who was the attorney who you had this</p> <p>10 conversation with?</p> <p>11 A Jamie Bair.</p> <p>12 Q And Mr. Bair was, I believe, identified</p> <p>13 as the attorney on this case in the document I</p> <p>14 showed you earlier?</p> <p>15 A Yes, I think so.</p> <p>16 Q Okay. Did that conversation or the</p> <p>17 information provided to you at that time raise any</p> <p>18 red flags or any concerns for you in regards to</p> <p>19 this FOIA request?</p> <p>20 A I don't recall. We -- we were very</p> <p>21 careful in the -- to keep the congressional</p> <p>22 searches separate from, obviously, the FOIA</p>	<p>139</p> <p>1 were going to be released by the committees, we</p> <p>2 wanted to get them out to our FOIA requestors as</p> <p>3 well.</p> <p>4 Or if -- you know, or if they were going</p> <p>5 to be released in litigation, that our</p> <p>6 non-litigation FOIA requestors would, you know,</p> <p>7 have access to these documents, as well.</p> <p>8 I mean, that's why during my tenure we</p> <p>9 started posting a lot more material to the</p> <p>10 department's website, even under the case -- the</p> <p>11 case numbers.</p> <p>12 But we did have discussions about the</p> <p>13 productions; and in turn, if Congress was going to</p> <p>14 go ahead and release material, we needed to go and</p> <p>15 release that material, if it was responsive, to</p> <p>16 these FOIA requestors.</p> <p>17 Q Okay. So do you know if that material</p> <p>18 and those records were searched in September of</p> <p>19 2014 in response to this FOIA request?</p> <p>20 A I -- I don't know.</p> <p>21 And, again, because it -- you mean the</p> <p>22 five documents, or you mean just general...</p>
<p>138</p> <p>1 searches. Because they were two different, you</p> <p>2 know -- two different paths, and different people</p> <p>3 were working on them at -- at times.</p> <p>4 And I don't -- I don't think we had a</p> <p>5 conversation about this. I -- the -- and I -- I</p> <p>6 don't even remember what production this was to</p> <p>7 the Hill or what it related to.</p> <p>8 Because I know the earlier productions to</p> <p>9 the Hill under Congressman Hice's committee</p> <p>10 related to Libya, and it was much broader than</p> <p>11 just the Benghazi attack or the Benghazi talking</p> <p>12 points.</p> <p>13 So I -- you know, I don't -- I don't</p> <p>14 remember the details or we had a discussion about</p> <p>15 this case specifically as it related to</p> <p>16 congressional productions.</p> <p>17 Q How about FOIA cases that related to</p> <p>18 Benghazi, not necessarily just this case, as it</p> <p>19 related to the production that was being made to</p> <p>20 the Hill?</p> <p>21 A I -- we did have discussions about, if we</p> <p>22 were producing documents to the Hill, and they</p>	<p>140</p> <p>1 Q What was produced to the Benghazi Select</p> <p>2 Committee in August of 2014, if that was searched</p> <p>3 in response to --</p> <p>4 A That, I don't --</p> <p>5 Q -- this FOIA request in September of</p> <p>6 2014?</p> <p>7 A I -- I couldn't tell you. I don't know.</p> <p>8 Q Okay. What about the five documents that</p> <p>9 you and Mr. Bair discussed in September of 2014?</p> <p>10 A I don't know where they -- what they were</p> <p>11 searched or ended up, you know. I don't know --</p> <p>12 even know where they came from.</p> <p>13 See, that's part of the issue, too. I</p> <p>14 don't know what record system they came from.</p> <p>15 Q Okay. Well, as the officer who's</p> <p>16 responsible for records management, wouldn't that</p> <p>17 be something that you would want to find out at</p> <p>18 that point?</p> <p>19 MR. GARDNER: Objection. Form.</p> <p>20 A I would if, you know, I had more time.</p> <p>21 When I left the department, we had a</p> <p>22 hundred cases in litigation. So -- and, plus, we</p>

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<p>165</p> <p>1 the records part of the Secretary's office"?</p> <p>2 A Mr. Finney's.</p> <p>3 Q Okay. What is the bi-weekly Benghazi</p> <p>4 meeting?</p> <p>5 A I may have mentioned this earlier. This</p> <p>6 is where we're -- with all the congressional</p> <p>7 production that is going out the door, we have all</p> <p>8 of these FOIA requests, nonlitigation FOIA</p> <p>9 requests -- or, let me back up.</p> <p>10 With all the litigation that is going out</p> <p>11 the door that we are producing, giving production</p> <p>12 to requestors in litigation, we wanted to use that</p> <p>13 material in our nonFOIA -- excuse me,</p> <p>14 nonlitigation FOIA requests.</p> <p>15 So we are -- because we had a lot. When</p> <p>16 I arrived over 60, I think, in my memory, FOIA</p> <p>17 requests, nonlitigation FOIA requests, relating to</p> <p>18 Benghazi, the whole scope of Benghazi issue.</p> <p>19 So we wanted to use this material we were</p> <p>20 producing in litigation to fulfill, if it was</p> <p>21 responsive, some of these other parallel</p> <p>22 nonlitigation FOIA requests.</p>	<p>167</p> <p>1 of -- of IPS.</p> <p>2 Q Okay. And Pat Scholl, again, remind me,</p> <p>3 what was his title or position or...</p> <p>4 A I can't remember his title. But Pat</p> <p>5 Scholl was really the head of all of the FOIA --</p> <p>6 nonlitigation FOIA processing --</p> <p>7 Q Okay.</p> <p>8 A -- in IPS.</p> <p>9 Q So would Mr. Scholl attend the meetings,</p> <p>10 as well?</p> <p>11 A Sometimes Pat would attend himself, or he</p> <p>12 would send his Deputies.</p> <p>13 Q Okay. Were there any -- did these</p> <p>14 meetings ever discuss the productions that were</p> <p>15 being made to Congress about Benghazi?</p> <p>16 A Only if a production had been made to</p> <p>17 Congress, and Congress then in turn released the</p> <p>18 documents to the public.</p> <p>19 Q So it would only be after the fact, as</p> <p>20 opposed to before?</p> <p>21 A It would only be after the fact.</p> <p>22 Q Okay. Do you recall any such production,</p>
<p>166</p> <p>1 Q Okay. And are these meetings that you</p> <p>2 led?</p> <p>3 A Yes.</p> <p>4 Q Okay. And that's for every meeting, not</p> <p>5 just this particular one that's note -- noted in</p> <p>6 the -- in the document?</p> <p>7 A Yes.</p> <p>8 Q Okay.</p> <p>9 A In addition to -- just to give you the --</p> <p>10 this was a way of trying to reduce our FOIA</p> <p>11 backlog. So we had a similar meeting relating to</p> <p>12 the Keystone Pipeline, numerous FOIA requests</p> <p>13 relating to the Keystone Pipeline.</p> <p>14 There was parallel litigation. And we</p> <p>15 wanted to use what was in -- we were producing in</p> <p>16 litigation to close some of these nonlitigation</p> <p>17 FOIA requests.</p> <p>18 Q Okay. And who would attend these</p> <p>19 meetings?</p> <p>20 A The FOIA analysts who were handling, and</p> <p>21 Pat Scholl the head of our -- or Pat's Deputies</p> <p>22 and his branch chiefs. Basically, the FOIA shop</p>	<p>168</p> <p>1 when that would have been brought up during these</p> <p>2 meetings, that was made to Congress about</p> <p>3 Benghazi?</p> <p>4 A No, I don't recall.</p> <p>5 Q When you left the State Department in</p> <p>6 March 2016, were these meetings still being held</p> <p>7 on a biweekly basis?</p> <p>8 A I -- I don't think so, no.</p> <p>9 Q Do you remember when these biweekly</p> <p>10 meetings began?</p> <p>11 A I believe they began some time in 2013,</p> <p>12 when I was Deputy Director.</p> <p>13 Q So after March 2013?</p> <p>14 A After April 2013.</p> <p>15 Q April, excuse me. I'm sorry.</p> <p>16 A Yeah.</p> <p>17 Q Uh-huh. Okay. Okay. Were there any</p> <p>18 agendas sent out in preparation for these</p> <p>19 meetings?</p> <p>20 A My recollection is that -- I think that</p> <p>21 the FOIA division would come with a list of cases</p> <p>22 relating to a specific subject.</p>

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<p style="text-align: right;">177</p> <p>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</p>	<p style="text-align: right;">179</p> <p>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?</p>
<p style="text-align: right;">178</p> <p>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</p>	<p style="text-align: right;">180</p> <p>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</p>

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<p style="text-align: right;">181</p> <p>1 these -- you know, the guidelines.</p> <p>2 Q Okay. And when you said, the Under</p> <p>3 Secretary, are you referring to Patrick Kennedy?</p> <p>4 A Yes.</p> <p>5 Q Okay. Anybody else who you raised these</p> <p>6 concerns to, other than Patrick Kennedy?</p> <p>7 A I think I might have raised it to Rich</p> <p>8 Vissek, the Acting Office of Legal Advisor, or</p> <p>9 Peggy -- or Margaret Grafeld raised it to Rich, as</p> <p>10 well.</p> <p>11 Q Why -- why did you feel so strongly that</p> <p>12 this was necessary, that they provide this</p> <p>13 information?</p> <p>14 A Well, we heard that there were 50,000 or</p> <p>15 60,000 e-mails, and that they had -- "they" being</p> <p>16 the Secretary's team -- had culled out 30,000 of</p> <p>17 these. And which is -- so we wanted to know what</p> <p>18 criteria they used.</p> <p>19 The standard from the National Archives</p> <p>20 is very strict. If there was -- if there were</p> <p>21 mixed records, that would be considered a federal</p> <p>22 record. If it was mixed personal and mentioned a</p>	<p style="text-align: right;">183</p> <p>1 Q Okay. Let me direct you to the last full</p> <p>2 paragraph on this page that begins with, Prior to</p> <p>3 the formal FOIA review by IPS of the 296 e-mails.</p> <p>4 A Okay.</p> <p>5 Q Does -- the 296 e-mails, is this</p> <p>6 referring to the Benghazi-related e-mails that</p> <p>7 Secretary Clinton returned?</p> <p>8 A I believe -- the Benghazi?</p> <p>9 Q Or --</p> <p>10 A Can you restate that question, please.</p> <p>11 Q Let me make it simple.</p> <p>12 What do the 296 e-mails refer to?</p> <p>13 A I believe this relates to the -- the 296</p> <p>14 relates to a subset of the former Secretary's</p> <p>15 e-mails that were made available to Congress,</p> <p>16 which were later released after a FOIA review.</p> <p>17 Q Okay. When were they released to</p> <p>18 Congress?</p> <p>19 A Some time in the spring of 2015.</p> <p>20 Q So further down in the -- starting with</p> <p>21 the second full sentence, However, and then I</p> <p>22 believe -- there is a redacted name -- and her</p>
<p style="text-align: right;">182</p> <p>1 discussion, that would be -- under the narrow</p> <p>2 National Archives rules, it would be considered a</p> <p>3 federal record.</p> <p>4 Q And do you know if the e-mails that were</p> <p>5 returned by Secretary Clinton and her attorneys,</p> <p>6 if they followed that guideline to include an</p> <p>7 e-mail that would include mixed information,</p> <p>8 personal and official?</p> <p>9 A I don't know.</p> <p>10 Q Did you -- was a request ever made by</p> <p>11 Patrick Kennedy or anybody else who you raised</p> <p>12 this to?</p> <p>13 A Ambassador Kennedy told me he would ask</p> <p>14 for the -- the guidelines.</p> <p>15 Q Do you know if the guidelines were ever</p> <p>16 provided to Patrick Kennedy?</p> <p>17 A Not during my tenure at the State</p> <p>18 Department.</p> <p>19 Q And that would be in 2016. Correct?</p> <p>20 A Right.</p> <p>21 Q March of --</p> <p>22 A To March of 2016.</p>	<p style="text-align: right;">184</p> <p>1 team did not work with interagency reviews</p> <p>2 familiar to -- and then another redaction.</p> <p>3 Who are you referring to in that</p> <p>4 paragraph there?</p> <p>5 A I'm referring to an attorney who worked</p> <p>6 for the Office of Legislative Affairs.</p> <p>7 Q And what attorney is that? Who was that?</p> <p>8 A Catherine Duval.</p> <p>9 Q And what was -- what was your concern</p> <p>10 there, if you can elaborate?</p> <p>11 A The concern was, in the 296 that there</p> <p>12 were other agencies' equities in those documents,</p> <p>13 you know, potentially classified information. But</p> <p>14 any release decisions -- and doing a FOIA review,</p> <p>15 we would normally make a referral back to that</p> <p>16 home agency. And Ms. Duval seemed to imply that</p> <p>17 she had already done that kind of coordination.</p> <p>18 But when we asked who she had coordinated</p> <p>19 with, they were people not familiar in our regular</p> <p>20 FOIA process.</p> <p>21 Q Okay. And that's people, when you -- the</p> <p>22 people you are referring to, that's -- is it</p>

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48 (189 to 192)

<p style="text-align: right;">189</p> <p>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</p>	<p style="text-align: right;">191</p> <p>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</p>
<p style="text-align: right;">190</p> <p>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</p>	<p style="text-align: right;">192</p> <p>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</p>

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<p style="text-align: right;">193</p> <p>1 before.</p> <p>2 A When this first came out, when these came</p> <p>3 out on the FBI website, I think I might have seen</p> <p>4 this, yes.</p> <p>5 Q Okay. And do you know whose interview</p> <p>6 these notes reflect?</p> <p>7 MR. GARDNER: I mean, if you think you</p> <p>8 know the answer.</p> <p>9 Q If you know.</p> <p>10 A Has this been released by the -- I</p> <p>11 mean...</p> <p>12 Q Whether or not it has been released, I'm</p> <p>13 just asking if you know as you sit here today</p> <p>14 whose interview these notes reflect?</p> <p>15 A This -- this looks like it might be Eric</p> <p>16 Stein's interview.</p> <p>17 Q Okay. I just want -- I want to point you</p> <p>18 to the third full paragraph on the first page, the</p> <p>19 last part of that paragraph.</p> <p>20 Around the second time, redaction,</p> <p>21 received a telephone call from attorney --</p> <p>22 redaction, Attorney Office of the Legal Advisor</p>	<p style="text-align: right;">195</p> <p>1 A I don't remember this at all.</p> <p>2 Q Okay. On Page 4 of the document.</p> <p>3 A Okay.</p> <p>4 Q There's a reference to the "7th floor</p> <p>5 group" or the "shadow government" in the first</p> <p>6 full paragraph.</p> <p>7 Do you see that?</p> <p>8 A Yes.</p> <p>9 Q Have you ever heard such terms, or do you</p> <p>10 know what that refers to?</p> <p>11 A Eric told me about this; that the</p> <p>12 management at the State Department would hold</p> <p>13 meetings and discuss FOIA cases, or FOIA in</p> <p>14 general. Sometimes we were invited to these</p> <p>15 meetings, Eric was, once in a while I would go. I</p> <p>16 think I only went once when it -- that one time</p> <p>17 when it related to Secretary Powell's e-mail</p> <p>18 releases.</p> <p>19 But, you know, that's all I know about</p> <p>20 it. I don't know what they discussed. And I</p> <p>21 thought it was interesting that they would have a</p> <p>22 meeting about FOIA and not invite all the FOIA --</p>
<p style="text-align: right;">194</p> <p>1 who asked, redaction, if there were any</p> <p>2 Clinton-related e-mails in the, redaction, PST</p> <p>3 file that, redaction, had from a previous FOIA</p> <p>4 request.</p> <p>5 Do you see that?</p> <p>6 A Yes.</p> <p>7 Q Do you know who the attorney was who</p> <p>8 called Mr. Stein asking for this information?</p> <p>9 MR. GARDNER: Objection. Lack of</p> <p>10 foundation.</p> <p>11 A I don't know.</p> <p>12 Q Okay. Do you know what PST file this</p> <p>13 document -- these notes refer to?</p> <p>14 MR. GARDNER: Objection. Lack of</p> <p>15 foundation.</p> <p>16 A No.</p> <p>17 Q Did you ever have a conversation with Mr.</p> <p>18 Stein about a call he may have received from an</p> <p>19 attorney from the Office of Legal Advisor, asking</p> <p>20 whether Clinton-related e-mails in a PST file had</p> <p>21 previous -- from a previous FOIA request contained</p> <p>22 Clinton-related e-mails?</p>	<p style="text-align: right;">196</p> <p>1 any of the FOIA people to it.</p> <p>2 Q Going back to the notation about the PST</p> <p>3 file, and the phone call that Mr. Stein received</p> <p>4 according to these notes.</p> <p>5 Did you ever receive a call from anybody</p> <p>6 asking whether Clinton-related e-mails were</p> <p>7 contained in any PST file?</p> <p>8 A No. No.</p> <p>9 MS. COTCA: Can we take a five-minute</p> <p>10 break --</p> <p>11 MR. GARDNER: Yeah, of course.</p> <p>12 MS. COTCA: -- to wrap up.</p> <p>13 VIDEO SPECIALIST: We are going off the</p> <p>14 record at 16:35.</p> <p>15 (A recess was taken.)</p> <p>16 VIDEO SPECIALIST: We are back on the</p> <p>17 record at 16:40.</p> <p>18 BY MS. COTCA:</p> <p>19 Q Mr. Hackett, are you aware if there were</p> <p>20 any meetings held by the White House in regards to</p> <p>21 Secretary Clinton's e-mails in 2014?</p> <p>22 A No.</p>

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

Exhibit 2 – Hackett Ex. 1



United States Department of State

Washington, D.C. 20520

April 15, 2015

The Honorable Trey Gowdy, Chairman
Select Committee on Benghazi
House of Representatives
Washington, D.C. 20515

RELEASE IN FULL

REVIEW AUTHORITY: Barbara
Nielsen, Senior Reviewer

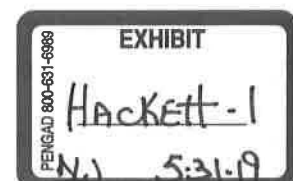
Dear Mr. Chairman:

I am writing in response to your letter of March 26, 2015, to Secretary Kerry regarding the status of certain Select Committee's requests to the Department of State.

Today we are making a substantial production of documents responsive to your January 27, 2015 subpoena relating to the investigation and proceedings conducted in 2012 by the Benghazi Accountability Review Board (ARB); last week we provided a staff briefing at your request; this week we have facilitated your interviews of two Department employees; and another briefing is scheduled for tomorrow. In short, our cooperation with your Committee continues apace.

Since your Committee's inception less than a year ago, the Department has provided five briefings, witnesses at each of the Committee's three hearings, eighteen witness interviews (since February), and over 40,000 pages of documents, many of which were produced in multiple formats at the Committee's request. We have delivered on these items in the order the Committee has requested, based on constructive dialogue with the Committee and taking into account the Department's resources. At the request of your staff, we changed the way the Department provides documents to the Committee – now providing them with few redactions, better organized, and Bates stamped.

Accordingly, I cannot agree that the Department has "hindered" the Committee's work or has "yet to substantially comply" with its requests. It is true that the Department's ability to quickly produce documents has been hindered by resource and technological constraints. The State Department is not set up to deal with the large increase in Congressional investigations which involve hundreds of requests – both for information and for hundreds of thousands of documents. But we are



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working to improve our methods and to reprogram funds for new technology and staff.

Of course, our resource constraints are compounded when faced with broad requests for documents spanning large periods of time and covering far-reaching subject matters. To address this, we have asked your staff, on multiple occasions, to focus and prioritize your requests. When this is done, we can much better meet your requests in a timely way.

Notwithstanding the challenges described above, we have been working in good faith—and as fast as we can—to facilitate the Committee's work. Committee members and staff have easy and frequent contact with the Department, including at biweekly interviews of Department employees, at briefings, at hearings, and during numerous phone calls and email exchanges. The Department has endeavored to answer members' and staff's questions as they arise and to provide timely, accurate information. There are many examples of our cooperative formal and informal information sharing. We thought the following chronology would be helpful:

Chronology of the Department's Cooperation

June 26, 2014

Soon after the Committee was established, the Department proactively reached out to engage the Committee. The Department pledged its cooperation and the Committee agreed to work collaboratively to identify its highest priorities.

July 23, 2014

In order to expedite production, the Department and the Committee reached an agreement whereby the Department agreed to produce its documents with limited redactions and the Committee agreed that, "[i]n the event that the Committee considers the public release of information falling under categories [that are generally redacted] to be integral to satisfaction of the mandate of the Committee, the Committee will identify the relevant documents and information therein to the State Department and give the Department of State a reasonable opportunity (five days or more) to make its case why such information should be redacted prior to public release. The Committee will consider such requests in good faith before making any such release."

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August 11, 2014

As part of its rolling production to Congress, on August 11, the Department provided to the Committee approximately 15,000 pages of documents responsive to prior Congressional Committee requests. The production included, among other things, emails including former Secretary Clinton's "hdr22@clintonemail.com" address.

Late August 2014

Following the Department's August 11 production, the Department engaged with the Committee to discuss its next priorities. The Committee asked the Department to focus on re-producing previously produced documents in less redacted form. The Department turned to those priorities and completed that process, which involved lifting redactions and re-producing tens of thousands of pages of material, in November.

September 4, 2014

The Department provided a Committee-requested briefing for Committee staff regarding the Department's progress implementing the Benghazi ARB's recommendations.

September 17, 2014

Assistant Secretary of State for Diplomatic Security Greg Starr testified before the Select Committee at a hearing regarding the Department's progress on the recommendations of the Benghazi ARB.

November 3, 2014

The Department provided a Committee-requested briefing for Committee staff regarding the benefits available to the families of Department employees who died in the Benghazi attacks.

November 18, 2014

On November 18, 2014, the Department received its first document request from the Committee, which sought documents from eleven current and former Department officials, including former Secretary Clinton, regarding our Benghazi presence and "weapons" in Libya over a two-year timespan. The Committee's letter asked that the production of emails include documents from the former Secretary's non-government email account. The Department agreed to meet, at the Committee's request, with the Chairman and Ranking Member to discuss the November 18 letter and a meeting was set for December 11.

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November 19, 2014

The Department provided a Committee-requested briefing for Committee members and staff regarding the benefits available to the families of Department employees who died in the Benghazi attacks.

December 10, 2014

The Committee canceled the scheduled December 11 meeting with Department personnel at which they were to have discussed the November 18 document request. The Department then reached out proactively to schedule a time to speak with Committee staff instead.

Assistant Secretary of State for Diplomatic Security Greg Starr testified before the Select Committee at a hearing regarding the Department's further progress on the recommendations of the Benghazi Accountability Review Board.

December 19, 2014

On December 19, 2014, the Department engaged in a constructive telephone conversation with Committee staff about how to prioritize the multiple requests outlined in the Committee's November 18 document request to the Department. The Committee said that its top priority was to receive former Secretary Clinton's emails. The Department agreed to review and produce those documents first.

Late December 2014

On December 22, former Secretary Clinton's attorney forwarded to the Department the Committee's December 2, 2014, request to Secretary Clinton for documents. The Department agreed to respond to that request in conjunction with the Committee's November 18 request to the Department. In response to a question from Committee staff, the Department confirmed that its production would include emails from the former Secretary's non-government email account.

January 13, 2015

The Department proactively offered and provided a classified briefing for Committee members and staff regarding the Benghazi attacks.

January 27, 2015

Deputy Assistant Secretary for House Affairs Joel Rubin testified before the Select Committee at a hearing regarding the Department's compliance with the Committee's requests. Specifically, he stated that the Department was working to

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produce former Secretary Clinton's emails, consistent with the Committee's stated priority.

January 28, 2015

The Committee subpoenaed the Department for documents related to the Benghazi Accountability Review Board.

February 10–April 15, 2015

The Department scheduled and facilitated eighteen interviews of current or former Department employees. This effort included bringing employees back to Washington from abroad for the purpose of providing interviews with the Committee.

February 13, 2015

On February 13, 2015, the Department produced to the Committee its top priority: emails to and from former Secretary Clinton, which the Department had received from the former Secretary in December. Greater detail about the contents of that production is provided below. In addition, the Department began its response to the Committee's January 28 subpoena and committed to continuing its work on the Committee's November and other requests.

February 18, 2015

On February 18, the Department and Committee staff held a telephone conference at the Committee staff's request. During the conversation, Committee staff for the first time asked whether former Secretary Clinton had any email address during the relevant period beyond the clintonemail.com address shown in the Department's document productions of August 2014 and February 2015. The Department responded that, to its knowledge, she did not.

February 27, 2015

The Committee staff requested a follow up in-person meeting for February 27. During the meeting, Committee staff asked again whether former Secretary Clinton used email accounts other than the clintonemail.com address during the relevant time period. The Department again responded that, to its knowledge, she did not. Having produced the former Secretary's emails, the Department also discussed a path forward on the Committee's November 18 document request. With over 40,000 pages produced to the Committee to date, including documents related to each of the individuals named in the Committee's November 18 request, the Committee agreed to identify specific issues, time periods, and documents to prioritize. As the Department explained, targeting specific issues and terms would

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improve the Department's ability to search for and produce responsive documents and reduce the likelihood of duplication. The Committee did not suggest any narrowing or targeting of its request until March 23.

March 4, 2015

On March 4, the Committee issued a second subpoena to the Department that broadened the scope of the Committee's November 18 request, expanding it from matters pertaining to the attacks in Benghazi to all documents from ten current and former Department employees covering a two-year span "referring or relating" to either the country of "Libya" or to "weapons" (defined as "any instrument, tool, or device for use in attack or defense") "located or found in, imported or brought into, and/or exported or removed from Libya."

March 12, 2015

The Department responded to the March 4 subpoena by letter, noting that by its own terms, the subpoena called for information unrelated to the Benghazi attacks and that the Department still needed the Committee's list of specific issues and search terms as well as further input in order to proceed.

March 23, 2015

The Committee sent the Department a partial narrowing of its March 4 subpoena, identifying a subset of time periods and former Department employees for the Department to focus on. The Committee did not narrow the subpoena's scope in terms of subject matter, for example by excluding issues about "Libya" that might be irrelevant or clarifying what "weapons" in Libya it is interested in.

April 10, 2015

The Department provided a Committee-requested briefing for Committee staff regarding how the Executive Secretariat maintains records. Department and Committee staff discussed potential next steps to move forward on compliance with the March 4 subpoena.

Current Status of Certain Committee Requests

As the above record demonstrates, the Department is committed to cooperating with the Committee to get it the information it needs. We look forward to continuing to engage with the Committee to ensure that we are properly prioritizing our resources. To that end, and in the interest of transparency, here is where the Department stands with respect to the Committee's pending document requests.

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November 18, 2014 Document Request

On February 13, the Department produced STATE-SCB 0045000 – STATE-SCB 0045895, which included just under 300 email records from former Secretary Clinton in the requested date range of January 1, 2011, to December 31, 2012. The Committee had identified these documents as its top priority.

The Committee's request to the Department focused on Benghazi and the Chairman's letter to Secretary Clinton explicitly stated that the "Committee has no interest in any emails, documents, or other tangible things not related to Benghazi." Nonetheless, the Department erred on the side of inclusion when determining whether a document was responsive to the Committee's requests. The documents produced relate to the security of, and attacks on, the State Department facility in Benghazi; the United States' diplomatic presence in Libya, including Benghazi; and the U.S. weapons programs related to Libya, such as discussions about whether to arm Libyan forces that were opposed to the Qaddafi regime. As described in our February 13 cover letter, and as discussed with Committee staff on February 27, 2015, a small number of documents were not included in the production because they implicate important Executive Branch institutional and confidentiality interests. In addition, documents of a personal nature and unrelated to the former Secretary's official capacity were not produced.

Recent public statements have referred to perceived "gaps" in the production of responsive emails involving Secretary Clinton from the 2011-2012 timespan produced to the Committee. The Department does possess emails involving Secretary Clinton sent and received during the former Secretary's 2011 trip to Tripoli, which also included stops in Malta, Afghanistan, Uzbekistan, and Tajikistan. However, the Department has not identified emails from that timeframe containing information related to the attacks in Benghazi in 2012. With that said, the Department remains willing to engage with the Committee about any perceived concerns with any of our productions, including our recent production of the former Secretary's emails.

The November 18 request also sought documents related to the attacks in Benghazi from ten other current and former State Department officials. At the Committee's request, the Department prioritized first former Secretary Clinton's emails and more recently, the ARB documents, and thus, has not yet been able to focus its efforts on these other individuals. We now understand that the Committee's March 4 subpoena supersedes the November 18 request.

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December 4 Interview Requests

Beginning on February 10, the Department began to make available for interviews the more than twenty current and former State Department employees that the Committee requested. As of this writing, eighteen Department employees have voluntarily been interviewed by your Committee, many of whom were brought back to Washington from abroad for that purpose. We have agreed, after consultation with your staff, to focus our efforts in the near term on document production and briefings, rather than additional scheduling of interviews.

January 28, 2015 Subpoena

Today, the Department is producing to the Committee STATE-SCB0046038 – STATE-SCB0047796, in response to the Committee's January 28, 2015 subpoena for documents related to the Benghazi ARB. This production continues our delivery of ARB documents that were physically set aside following the ARB's completion and archived. They include agendas of the ARB, summaries of interviews conducted by the ARB, as well as documents reviewed by the ARB. We expect to complete our production of these archived documents in the coming weeks. Of course, as we have told the Committee, our ability to maintain production schedules depends, in part, on the Committee's other priorities, including requests for briefings, witness interviews, hearings, or requests to prioritize other document requests first.

To our knowledge, the Benghazi ARB is the only ARB whose investigative files have been produced to Congress. By statute, the State Department sends Congress a report on actions taken in response to the recommendations of an ARB, not its entire report, and not its investigative files. As we have said on numerous occasions, we believe that disclosing these files will have significant negative consequences. The prospect of Congressional scrutiny could have a chilling effect on the deliberations of future ARBs, on their ability to conduct needed reviews efficiently, and on the willingness of witnesses to engage in full, frank and unguarded discussion that is critical to an ARB's being able to make informed recommendations designed to prevent future security-related incidents. Admiral Mullen, the Vice Chair of the Benghazi ARB, stated that the loss of anonymity could dissuade witnesses from coming forward in the future.

In order to mitigate these concerns to the greatest extent possible, when the Committee publishes its final report, it must return these ARB files along with the classified ARB reports in its possession, as it agreed to do when it received them in September 2014. In addition, you have agreed to treat these documents as subject to our August 2014 agreement concerning the treatment of sensitive information.

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Also, as with our prior productions, please note that these documents include classified material, as well as sensitive information that is protected from public disclosure under the Freedom of Information Act, 5 U.S.C. § 552, the Privacy Act, 5 U.S.C. § 552a, and Department regulations. Therefore, we request that the Select Committee share these materials only with members and appropriately-cleared staff of the Select Committee who must review them as part of their official duties. Moreover, we ask that you ensure that all classified information is properly handled and stored to prevent unauthorized disclosures. Please note that in order to expedite its review and production, the Department has not conducted a classification review of these documents. However, in our review for production we identified documents without classification markings that we believe could be classified. We would be happy to review any particular document for classification, but request that in the meantime that you treat unmarked documents as classified.

March 4, 2015 Subpoena

The March 4, 2015 subpoena broadened the scope of the Committee's November 18, 2014, document request with respect to documents sought regarding ten current and former Department officials. As described above, the Department has been working with the Committee for some time to focus its requests to enable the Department to better search for and produce responsive documents. One challenge is that, as phrased, the Committee's requests would require the Department to manually sift through a large volume of potentially duplicative records without the benefit of targeted search terms or topics.

The Department continues to stress that searching for all documents related to "Libya" and "weapons" will cause our search and review to take longer and we invite the Committee to provide us with additional guidance on exactly what it is looking for. We are asking the Committee to help us identify relevant information while excluding irrelevant information so we can provide you documents more quickly. We will continue our collaborative conversations with Committee staff and provide the Committee a timeframe when it is available.

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The Department is committed to cooperating with the Committee and to getting it the information it needs. We hope that the foregoing information is helpful in that regard.

Sincerely,

A handwritten signature in cursive script that reads "Julia Frifield".

Julia Frifield
Assistant Secretary
Legislative Affairs

Enclosures:
As stated.

cc: The Honorable Elijah E. Cummings

Exhibit 3 – Hackett Ex. 17



United States Department of State

Washington, D.C. 20520

April 18, 2016

Case No. F-2014-08848

Ms. Kate Bailey
Judicial Watch
425 Third St. SW, Suite 800
Washington, DC 20024

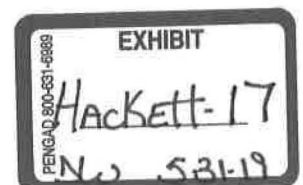
Dear Ms. Bailey:

I refer to our letter dated November 12, 2014, regarding the release of certain Department of State records under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552.

The Department has completed its search of electronic records retired by the Office of the Executive Secretariat, and has identified eight documents that are responsive to your request. After reviewing these documents, we have determined that two may be released in full, one may be released with excisions, and five must be withheld in full.

Also, upon further review, the Department has determined that one document previously withheld in full in our letter dated November 12, 2014 may now be released in part.

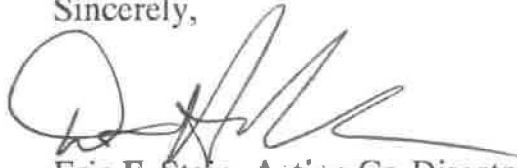
An enclosure explains the FOIA exemptions and other grounds for withholding material. Where we have made excisions, the applicable FOIA exemptions are marked on each document. For the five documents withheld in full, we have cited FOIA Exemption 5, 5 U.S.C. § 552 (b)(5). In some cases, two or more exemptions may apply to the same document. All non-exempt material that is reasonably segregable from the exempt material has been released. All released material is enclosed.



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We have completed the processing of your request. If you have any questions, your attorney may contact senior counsel Robert Prince at (202) 305-3654 or Robert.Prince@USDOJ.gov. Please refer to the case number shown above and the civil action number 1:15-cv-1242 in all correspondence about this case.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eric F. Stein', with a large circular flourish on the left and a long horizontal stroke extending to the right.

Eric F. Stein, Acting Co-Director
Office of Information Programs and Services

Enclosures: As stated.

The Freedom of Information Act (5 USC 552)

FOIA Exemptions

- (b)(1) Information specifically authorized by an executive order to be kept secret in the interest of national defense or foreign policy. Executive Order 13526 includes the following classification categories:

- 1.4(a) Military plans, systems, or operations
- 1.4(b) Foreign government information
- 1.4(c) Intelligence activities, sources or methods, or cryptology
- 1.4(d) Foreign relations or foreign activities of the US, including confidential sources
- 1.4(e) Scientific, technological, or economic matters relating to national security, including defense against transnational terrorism
- 1.4(f) U.S. Government programs for safeguarding nuclear materials or facilities
- 1.4(g) Vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to US national security, including defense against transnational terrorism
- 1.4(h) Weapons of mass destruction

- (b)(2) Related solely to the internal personnel rules and practices of an agency

- (b)(3) Specifically exempted from disclosure by statute (other than 5 USC 552), for example:

ARMSEXP	Arms Export Control Act, 50a USC 2411(c)
CIA PERS/ORG	Central Intelligence Agency Act of 1949, 50 USC 403(g)
EXPORT CONTROL	Export Administration Act of 1979, 50 USC App. Sec. 2411(c)
FS ACT	Foreign Service Act of 1980, 22 USC 4004
INA	Immigration and Nationality Act, 8 USC 1202(f), Sec. 222(f)
IRAN	Iran Claims Settlement Act, Public Law 99-99, Sec. 505

- (b)(4) Trade secrets and confidential commercial or financial information

- (b)(5) Interagency or intra-agency communications forming part of the deliberative process, attorney-client privilege, or attorney work product

- (b)(6) Personal privacy information

- (b)(7) Law enforcement information whose disclosure would:
- (A) interfere with enforcement proceedings
 - (B) deprive a person of a fair trial
 - (C) constitute an unwarranted invasion of personal privacy
 - (D) disclose confidential sources
 - (E) disclose investigation techniques
 - (F) endanger life or physical safety of an individual

- (b)(8) Prepared by or for a government agency regulating or supervising financial institutions

- (b)(9) Geological and geophysical information and data, including maps, concerning wells

Other Grounds for Withholding

- NR Material not responsive to a FOIA request excised with the agreement of the requester

RELEASE IN PART
B5,B6

Subject: Fwd: REVISED Key points

From: Cheryl Mills

Date: 9/29/12, 1:18 PM

To: Jake.Sullivan, Philippe Reines

B6

B6

My suggested thoughts:

B5

On Sat, Sep 29, 2012 at 11:49 AM, Mills, Cheryl D <MillsCD@state.gov> wrote:

JJS-DOS-0000036

--- Original Message ---

From: Sullivan, Jacob J

Sent: Saturday, September 29, 2012 11:09 AM

To: 'hdr22@clintonemail.com' <hdr22@clintonemail.com>

Cc: Mills, Cheryl D

Subject: Key points

HRC, Cheryl -

Below is my stab at tp's for the Senator call. Cheryl, I've left the last point blank for you. These are rough but you get the point.

B5

JJS-DOS-0000037

B5

Page Denied

Exhibit 4 – Hackett Ex. 21

FD-302a (Rev. 10-6-95)

-1-

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 10-13-2016 BY J37J85T94 NSICG

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 08/24/2015

[redacted] United States Department of State (STATE), 515 22nd Street NW, Washington, D.C. 20037, office telephone (202) [redacted] mobile telephone (202) [redacted] email [redacted]@state.gov, date of birth [redacted] was interviewed in person by FBI Special Agents [redacted] and [redacted] at FBI Headquarters, 935 Pennsylvania Avenue Northwest, Washington, D.C. 20535. After being advised of the identities of the interviewing Agents and the nature of the interview, [redacted] provided the following information:

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[redacted] started working at STATE in [redacted] and since [redacted] was the [redacted] for Margaret "Peggy" GRAFELD, Deputy Assistant Secretary, who was responsible for overseeing 400-500 employees who work on matters related to the Freedom of Information Act (FOIA), the Privacy Act, and information management for STATE. A/GIS was the office that provided guidance, usually through memorandums, that oversaw records compliance for all STATE employees. A/GIS also oversaw the coordination, production and maintenance of STATE's Foreign Affairs Manual (FAM), though A/GIS was not responsible for the FAM's content. [redacted]

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[redacted] Joyce BARR, Assistant Secretary, Bureau of Administration, was GRAFELD's boss and immediately subordinate to Under Secretary for Management Patrick KENNEDY.

In or around August 2014, [redacted] in Legislative Affairs to work review and production matters related to inquiries from the House Select Committee on Benghazi. [redacted] STATE's Legislative Affairs. It was around that time that [redacted] started to learn about records production and the FOIA process. Around the same time, [redacted] received a telephone call from [redacted] Attorney, Office of the Legal Adviser, who asked [redacted] if there were any CLINTON-related emails in the [redacted].pst file that [redacted] had from a previous FOIA request. [redacted] answered [redacted] that there were CLINTON-related emails in the [redacted].pst file.

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The Information Programs and Services (IPS), Bureau of Administration oversaw the FOIA program. In or around November or December 2014, in response to a FOIA request, IPS officials were notified they would pick-up 14 banker boxes of emails at former Secretary of State Hillary CLINTON's office related to CLINTON's use of personal email to conduct official STATE business. Later, [redacted]

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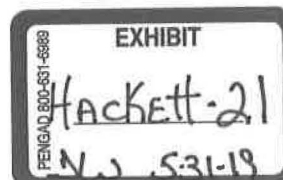
Investigation on 08/19/2015 at Washington, DC

File # [redacted] Date dictated N/A

By SA [redacted] SA [redacted]

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This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.



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FD-302a (Rev. 10-6-95)

Continuation of FD-302 of Interview [redacted], On 08/19/2015, Page 2

[redacted] to pick-up only 12 boxes at Williams & Connolly, LLP. On or around December 4, 2014, [redacted] picked-up 12 boxes at Williams & Connolly. [redacted] and IPS officials were unsure what happened to the other two boxes. The items in the boxes were stacked with no folders or known method of organization.

[redacted] Global Publishing Solutions, who used classified copiers and made two-sided copies of all received materials for [redacted] a copy for officials in STATE Executive Secretariat (S/ES), and a couple of copies for IPS officials to use for their FOIA review. The original emails were shrink-wrapped and placed in a sensitive compartmented information facility in Newington, Virginia.

In March 2015, [redacted] first heard of issues with the CLINTON-related FOIA process. [redacted] the FOIA program. The normal FOIA process would be where IPS received a FOIA request, then IPS forwarded that request on STATE forms via email to the person who the FOIA request pertained to. The pertinent party would then fill out the form and provide the IPS office the requested items, which the IPS office then reviewed prior to a release of the information back to the initial requestor. In the CLINTON-related FOIA case, IPS received an unprecedented amount of emails in hard copy form, as there were 52,455 work-related pages to review. In a letter hand-delivered to KENNEDY by Cheryl MILLS, or MILLS' attorney, it was stated, "in an abundance of caution, they overproduced."

Separate from the CLINTON-related FOIA request, there was a Congressional request for CLINTON-related emails related to the Benghazi incident from the House Select Committee on Benghazi. A review was conducted of 296 emails, probably by persons who worked in the Bureau of Legislative Affairs and Office of the Legal Adviser. [redacted] stated [redacted] and [redacted] would know why and how those 296 specific emails were picked and why and how they conducted their own review, separate from any review the IPS unit conducted. Previously, IPS had always been in charge of Congressional document production; [redacted] stated attorneys from Legislative Affairs and Office of the Legal Adviser would normally only weigh in on the legality and scope of requests, but IPS would actually conduct the review and production. [redacted] and [redacted] stated they coordinated the proper review of the material with STATE bureaus and other agencies. After their own review was finished, [redacted] and [redacted] produced the requested material for the House Committee, prior and independent to the IPS unit's formal review.

[redacted] stated those involved at IPS felt the 7th floor, or leading STATE officials, had their own ideas on how to formally review the 296 emails. KENNEDY's initial idea for how to review the 296 email was as follows: 1) the IPS officials conduct a review; 2) IPS officials referred items to other STATE bureaus and inter-agency partners for their review; 3) IPS officials received the referral determinations and submitted to the House Committee. The review process that was finally decided upon was as follows: 1) the IPS officials conduct a review; 2) IPS officials referred items to other STATE bureaus and inter-agency partners for their review; 3) IPS officials received the referral determinations and submitted

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FD-302a (Rev. 10-6-95)

Continuation of FD-302 of [redacted] Interview of [redacted] On 08/19/2015, Page 3
to the Office of the Legal Adviser; 4) after the Office of the Legal Advisers review, then it would be submitted to the House Committee.

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In mid-March 2015, IPS officials conducted their formal review of the 296 emails on their classified network, aka "CLASSNET," using their Freedoms System, aka "F2." IPS felt immense pressure to complete the review quickly and to not label anything as classified. In IPS' initial review, they did not use a B(1) exemption on any of the emails. The B(1) exemption was used to exclude the public release of classified information or matters related to national security. IPS officials were told there was nothing classified in the 296 emails, so they shouldn't use the B(1) exemption.

However, from the formal review of the 296 emails, in total, [redacted] thought there were four or five STATE bureaus, such as African Affairs Bureau and the Near Eastern Affairs (NEA) Bureau, and five non-STATE agencies, specifically the FBI, CIA, Department of Defense, National Security Council and White House Counsel, that were sent referrals (items/emails) to conduct their own formal classification review. The NEA responded that in the material they received there were four or five B(1) redactions that needed to be made. After he heard this, [redacted] was frustrated and asked IPS officials if they were "going to challenge the desk officer from Maghreb" by using the B(1) exemption. [redacted] asked, "Who at NEA upgraded it? We'll need to explain classification to these people." [redacted] stated multiple times [redacted] already coordinated with other agencies and [redacted] has previous experience with document production." [redacted] stated "NEA will change their B(1)s to B(5)s because they (NEA) didn't understand how to classify items." A B(5) exemption was not used for classified data, but rather for privileged communications, such as executive- or attorney-related privileges. [redacted] or [redacted] also stated, "it's not classified until we upgrade it."

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The review officials that [redacted] and [redacted] used for the review of the 296 emails were not the same normal review officials that the IPS team use on a regular basis. For example, [redacted] and [redacted] did not use the IPS' normal point of contact for the FBI, [redacted] but instead used someone from the Department of Justice to count as the FBI reviewer. The names [redacted] and [redacted] stated they used for White House Counsel and the Department of Defense were also not the regular reviewers the IPS team used. [redacted] and [redacted] upon being asked directly, would not give a name of who they coordinated reviews with at the CIA.

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Throughout the process, [redacted] stated if an email/item should have a B(1) exemption, then IPS would use a B(1) exemption. Despite that, at the end of the referral process, IPS was told to run everything by Legislative Affairs and [redacted] IPS officials felt intimidated when they used or suggested the use of the B(1) exemption on any of the 296 emails. In addition to [redacted] and [redacted] KENNEDY and [redacted] were named as some of the STATE officials who pressured IPS employees to not label anything as classified.

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In late April 2015, IPS officials completed the formal review of the Benghazi-related Congressional inquiry. All materials were ready for release at that time. The CIA provided redactions,

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Continuation of FD-302 of [redacted] interview of [redacted] On 08/19/2015, Page 4

but none were deemed a B(1) exemption. Most of the items with CIA redactions were emails from Sidney BLUMENTHAL. One item was deemed classified according to the FBI and KENNEDY held a closed door meeting attended by the FBI's [redacted] and IPS' [redacted] among others. In that meeting, KENNEDY asked [redacted] to change the FBI's B(1) upgrade classification, but [redacted] did not change the FBI's stance. On May 22, it was decided by the IPS team they would keep the upgrade of the one FBI-related email and the IPS officials sent David KENDALL, Attorney, Williams & Connolly, LLC, a letter informing him of the results.

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There was a powerful group of very high-ranking STATE officials that some referred to as "The 7th Floor Group" or "The Shadow Government." This group met every Wednesday afternoon to discuss the FOIA process, Congressional records, and everything CLINTON-related to FOIA/Congressional inquiries. The known regular attendees included Jonathan FINER, Chief of Staff for Secretary of State John KERRY, Jennifer STOUT, Deputy Chief of Staff, Heather HIGGINBOTTOM, Deputy Secretary of State for Management and Resources, KENNEDY, Julia PRIFIELD, Assistant Secretary, Legislative Affairs, [redacted] Office of the Legal Adviser, [redacted] Office of the Legal Adviser overseeing STATE's [redacted], [redacted], and [redacted].

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Normally, with larger FOIA requests, such as with the CLINTON-related FOIA request, IPS would schedule a rolling release—that meant every few weeks or month, the properly reviewed and approved material would be made public. However, [redacted] and The 7th Floor Group argued the release should be done all at once in January 2016, for coordination purposes. While IPS officials did not have control of the release process of the 296 emails related to the House Select Committee on Benghazi's request, they did have control for the release process for the approximately 30,000 emails, or 52,455 pages related to the CLINTON FOIA request, and it was decided to be a rolling release.

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On July 15, 2015, IPS on-boarded Intelligence Community Inspector General (ICIG) reviewers to help with the overwhelming review process. The ICIG reviewers were trained up and had been integrated into the FOIA review process to help ensure IPS can meet the mandated release of all non-exempt/non-redacted emails by the January 15, 2016 deadline. To date, [redacted] was aware of approximately 305 referrals already sent out for classification determination.

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[redacted] stated S/ES are the Custodian of Records for all Secretaries of State and Deputy Secretaries of State. As such, S/ES received all taskers from the IPS team related to FOIA requests that involve Secretaries of State or Deputy Secretaries of State. S/ES should also have answers regarding STATE's procedures that dealt with information technology, including hardware and software for STATE employees' emails and telephones. Joseph MACMANUS, Executive Secretary and Ambassador, S/ES, and [redacted] S/ES, or someone in the S/ES Information Resource Management (S/ES/IRM) unit should know specific details about CLINTON's at-home server set-up. [redacted] stated STATE servers were located at the Enterprise Server Operations Center (ESOC) and Management/IRM (M/IRM) would be knowledgeable about STATE servers.

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FD-302a (Rev. 10-6-95)

Continuation of FD-302 of _____ Interview of [REDACTED] _____, On 08/19/2015, Page 5

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High-ranking STATE officials, described as some Assistant Secretaries and all Under Secretaries and higher, used a separate network for emails and record-keeping called the Principal Officer Electronic Management System (POEMS). The vast majority of STATE employees were not on POEMS.

[REDACTED] stated he heard third-hand the National Security Agency (NSA) set-up a computer for CLINTON and the FBI should talk to S/ES about the specifics. Additionally, FBI should ask S/ES about Jake SULLIVAN's email being hacked, as maybe that had something to do with CLINTON's emails or why the NSA set-up her computer.

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HRC-304

Exhibit 5 – Pitterle Tr. Excerpts



Planet Depos®
We Make It *Happen*™

Transcript of Elissa Guitron Pitterle, Designated Representative

Date: June 19, 2019

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

Planet Depos

Phone: 888.433.3767

Email: transcripts@planetdepos.com

www.planetdepos.com

Transcript of Elissa Guitron Pitterle, Designated Representative 1 (1 to 4)
Conducted on June 19, 2019

1	<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE DISTRICT OF COLUMBIA</p> <p>3 - - - - - x</p> <p>4 JUDICIAL WATCH, INC., :</p> <p>5 Plaintiff, :</p> <p>6 v. : Civil Action No.</p> <p>7 U.S. DEPARTMENT OF STATE, : 14-01242 (RCL)</p> <p>8 Defendant. :</p> <p>9 - - - - - X</p> <p>10</p> <p>11 Videotaped Deposition of U.S. DEPARTMENT OF STATE,</p> <p>12 by and through its Designated Representative</p> <p>13 ELISSA GUITRON PITTERLE</p> <p>14 Washington, DC</p> <p>15 Wednesday, June 19, 2019</p> <p>16 10:09 a.m.</p> <p>17</p> <p>18</p> <p>19</p> <p>20 Job No.: 242902</p> <p>21 Pages 1 - 275</p> <p>22 Reported by: Debra A. Whitehead</p>	3
2	<p>1 A P P E A R A N C E S</p> <p>2 ON BEHALF OF PLAINTIFF:</p> <p>3 RAMONA COTCA, ESQUIRE</p> <p>4 LAUREN M. BURKE, ESQUIRE</p> <p>5 PAUL J. ORFANEDES, ESQUIRE</p> <p>6 MICHAEL BEKESHA, ESQUIRE</p> <p>7 JUDICIAL WATCH, INC.</p> <p>8 425 Third Street, SW</p> <p>9 Suite 800</p> <p>10 Washington, DC 20024</p> <p>11 (202) 646-5172</p> <p>12</p> <p>13 ON BEHALF OF DEFENDANT:</p> <p>14 JOSHUA E. GARDNER, ESQUIRE</p> <p>15 STEPHEN M. PEZZI, ESQUIRE</p> <p>16 ROBERT PRINCE, ESQUIRE</p> <p>17 U.S. DEPARTMENT OF JUSTICE</p> <p>18 FEDERAL PROGRAMS BRANCH</p> <p>19 1100 L Street, NW</p> <p>20 Washington, DC 20005</p> <p>21 (202) 305-7583</p> <p>22</p>	4
2	<p>1 Videotaped Deposition of ELISSA GUITRON</p> <p>2 PITTERLE, held at the offices of:</p> <p>3</p> <p>4 U.S. DEPARTMENT OF JUSTICE</p> <p>5 CIVIL DIVISION</p> <p>6 1100 L Street, NW</p> <p>7 Washington, DC 20005</p> <p>8 (202) 514-2000</p> <p>9</p> <p>10</p> <p>11 Pursuant to notice, before Debra A. Whitehead,</p> <p>12 an Approved Reporter of the United States District</p> <p>13 Court and Notary Public of the District of Columbia.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	4
2	<p>1 A P P E A R A N C E S C O N T I N U E D</p> <p>2 ON BEHALF OF DEFENDANT:</p> <p>3 ELIZABETH SHAPIRO, ESQUIRE</p> <p>4 U.S. DEPARTMENT OF JUSTICE</p> <p>5 CIVIL DIVISION</p> <p>6 20 Massachusetts Avenue, NW</p> <p>7 Washington, DC 20530</p> <p>8 (202) 514-2205</p> <p>9</p> <p>10 ON BEHALF OF DEFENDANT:</p> <p>11 MICHAEL LIEBERMAN, ESQUIRE</p> <p>12 ELIZABETH GROSSO, ESQUIRE</p> <p>13 UNITED STATES DEPARTMENT OF STATE</p> <p>14 2201 C Street, NW</p> <p>15 Washington, DC 20520</p> <p>16 (202) 647-6371</p> <p>17</p> <p>18</p> <p>19 ALSO PRESENT:</p> <p>20 JEREMY DINEEN, Video Specialist</p> <p>21</p> <p>22</p>	4

Transcript of Elissa Guitron Pitterle, Designated Representative 2 (5 to 8)
Conducted on June 19, 2019

5	7
C O N T E N T S	P R O C E E D I N G S
EXAMINATION OF ELISSA GUITRON PITTERLE PAGE	VIDEO SPECIALIST: Here begins Disk
By Ms. Cotca 9	Number 1 in the videotaped 30(b)(6) deposition of
	Elissa Guitron Pitterle in the matter of Judicial
E X H I B I T S	Watch, Inc., V U.S. Department of State, in the
(Attached to the Transcript)	U.S. District Court for the District of Columbia;
PITTERLE DEPOSITION EXHIBIT PAGE	Case Number 14-01242.
Exhibit 1 Plaintiff's Second Amended Notice 15	Today's date is June 19, 2019. The time
of Deposition Pursuant to FRCP	on the video monitor is 10:09 a.m. The
30(b)(6)	videographer today is Jeremy Dineen, representing
Exhibit 2 Summary of Searches Performed for 14	Planet Depos. This video deposition is taking
Documents Responsive to the TP	place at the offices of the Department of Justice,
FOIA Request	13 at 1100 L Street, Northwest, in Washington, DC.
Exhibit 3 Excerpts Concerning Knowledge of 42	Would counsel please voice-identify
E-mail Use	themselves and state whom they represent.
Exhibit 4 Timeline: Secretary Clinton	MS. COTCA: Ramona Cotca, for plaintiff
E-mail Use	Judicial Watch.
Exhibit 5 Processing of the CREW Request 42	MS. BURKE: Lauren Burke, for plaintiff
Exhibit 6 Records Systems in S/ES 42	Judicial Watch.
Exhibit 7 Timeline of Talking Points 42	MR. ORFANEDES: Paul Orfanedes, for
Request	plaintiff Judicial Watch.
Exhibit 8 Binder 1, CREW Request 90	MR. BEKESHA: Michael Bekesha, for
6	8
E X H I B I T S C O N T I N U E D	plaintiff.
PITTERLE DEPOSITION EXHIBIT PAGE	MR. GARDNER: Josh Gardner, the United
Exhibit 9 Binder 2, Judicial Watch Talking 90	States Department of Justice, on behalf of the
Points Request	defendants.
Exhibit 10 Binder 3, Searches for Judicial 90	And the witness will read and sign.
Watch Talking Points Request	MR. PRINCE: Robert Prince, from the
Exhibit 11 Binder 4, Personal E-mails 90	Department of Justice, on behalf of the defendant.
Exhibit 12 Binder 5, Benghazi 90	MR. PEZZI: Stephen Pezzi, from the
Exhibit 13 Binder 6, Miscellaneous 90	Department of Justice, on behalf of defendant.
Exhibit 14 E-mail String, Ending from 198	MR. LIEBERMAN: Michael Lieberman, from
Ms. Mills to Mr. Sullivan, et al.,	the Department of State.
9/29/12	MS. GROSSO: Elizabeth Grosso, from the
Exhibit 15 E-mail String, Ending from 246	Department of State.
Mr. Finney, to	VIDEO SPECIALIST: Thank you.
Ms. Austin-Ferguson, 8/27/14	The court reporter today is Debbie
	Whitehead, representing Planet Depos.
	Would the reporter please swear in the
	witness.
	ELISSA GUITRON PITTERLE,
	having been duly sworn, testified as follows:
	EXAMINATION BY COUNSEL FOR PLAINTIFF
	BY MS. COTCA:

Conducted on June 19, 2019

<p>245</p> <p>1 record at 17:09.</p> <p>2 (A recess was taken.)</p> <p>3 VIDEO SPECIALIST: We are back on the</p> <p>4 record at 17:24.</p> <p>5 BY MS. COTCA:</p> <p>6 Q Did you have a chance to go back and</p> <p>7 obtain the information with respect to the e-mail</p> <p>8 referenced in Exhibit 3?</p> <p>9 A Yes. So it's -- it is an e-mail I had</p> <p>10 not seen previously. But I reviewed it now. And</p> <p>11 it's an e-mail string that took place over a</p> <p>12 couple of days in August, late August of 2014,</p> <p>13 where various State Department officials are</p> <p>14 talking about arranging this public affairs</p> <p>15 meeting that John Hackett referenced in his</p> <p>16 deposition.</p> <p>17 And so there is -- there is -- there were</p> <p>18 e-mails that talked about the specific timing of</p> <p>19 that meeting.</p> <p>20 Q Okay. And do you have a copy of the</p> <p>21 e-mail string that you reviewed?</p> <p>22 A Yes.</p>	<p>247</p> <p>1 A That's when they were talking about</p> <p>2 having the meeting.</p> <p>3 Q I'm sorry?</p> <p>4 A I don't know if the meeting actually took</p> <p>5 place, but that is when they -- the e-mail talks</p> <p>6 about having the meeting. And I have no reason to</p> <p>7 think it didn't take place.</p> <p>8 Q Sorry, I'm having a hard time hearing</p> <p>9 you. What was the last part of the answer?</p> <p>10 A Sure. So I don't have -- you know, John</p> <p>11 Hackett I guess recalls that he was invited to the</p> <p>12 meeting, but didn't go. And Clarence Finney</p> <p>13 doesn't recall the meeting at all. But there is</p> <p>14 e-mails suggesting that the meeting was arranged.</p> <p>15 But I don't know if it went -- if the meeting</p> <p>16 happened or if it was cancelled at some point.</p> <p>17 Q Do you have any reason to believe that</p> <p>18 the meeting did not take place?</p> <p>19 A No.</p> <p>20 Q Okay. And who provided you a copy of</p> <p>21 this document?</p> <p>22 A The State Department counsel.</p>
<p>246</p> <p>1 MR. GARDNER: We can give you an extra</p> <p>2 copy if you want one.</p> <p>3 MS. COTCA: That would be great.</p> <p>4 MR. GARDNER: Sure.</p> <p>5 MS. COTCA: And can we mark this as an</p> <p>6 exhibit? I don't know what number we are on.</p> <p>7 Exhibit 15, please.</p> <p>8 MR. GARDNER: Exhibit 15.</p> <p>9 (Pitterle Deposition Exhibit 15 marked</p> <p>10 for identification, retained by counsel.)</p> <p>11 (A discussion was held off the record.)</p> <p>12 MS. COTCA: And for the record, this is</p> <p>13 an e-mail dated August -- or it contains an e-mail</p> <p>14 dated August 27, 2014, from Mr. Finney, regarding</p> <p>15 meeting with spokesperson's office from 2014.</p> <p>16 BY MS. COTCA:</p> <p>17 Q Is that correct?</p> <p>18 A Yes.</p> <p>19 Q And what was the time that was confirmed</p> <p>20 for the meeting with the spokesperson's office?</p> <p>21 A August 27, 2014, at 3 p.m.</p> <p>22 Q That's when the meeting took place?</p>	<p>248</p> <p>1 Q And who is that?</p> <p>2 A Elizabeth Grosso.</p> <p>3 Q And those who's representing the State</p> <p>4 Department -- on behalf of the State Department</p> <p>5 here at this deposition?</p> <p>6 A Yes.</p> <p>7 Q Okay. While you were on break, looking</p> <p>8 over the document marked as Exhibit 15, did you</p> <p>9 attempt to contact Mr. Finney to confirm whether</p> <p>10 he recalls this meeting in light of this e-mail</p> <p>11 that you have just been shown?</p> <p>12 A No, I did not.</p> <p>13 Q Is Mr. Clarence Finney working today at</p> <p>14 the State Department?</p> <p>15 A I don't know if he's in today.</p> <p>16 Q Okay.</p> <p>17 A Yes.</p> <p>18 Q Let me rephrase my question.</p> <p>19 MR. GARDNER: I thought you were actually</p> <p>20 asking if he was in the office today.</p> <p>21 MS. COTCA: No.</p> <p>22 Q My question initially, my first question</p>

Conducted on June 19, 2019

<p style="text-align: right;">249</p> <p>1 is, he's employed, he's currently employed by the 2 State Department. Correct? 3 A Yes, that's correct. 4 Q And he has the same position that he had 5 back in August of 2014 with the State Department. 6 Is that right? 7 A That's correct. 8 Q Okay. And do you know if Mr. Finney is 9 in the office today? 10 A I do not know if he's in the office 11 today. 12 Q Did you attempt to contact him to see if 13 he's in the office today? 14 A I did not. 15 Q Okay. 16 A But -- 17 Q I'm sorry. Go ahead. 18 A But I think it's important to note that 19 Mr. Finney has already said that he doesn't recall 20 the meeting. 21 Q Do you know if Mr. Finney reviewed this 22 document when he testified that he doesn't recall</p>	<p style="text-align: right;">251</p> <p>1 State Department? 2 MR. GARDNER: Objection. Form. 3 A No. 4 Q How do you know that? 5 A I believe that everything that -- with 6 the exception of those e-mails, which it just said 7 confirmed through e-mail, it wasn't to a specific 8 e-mail, were depositions and other documents that 9 are publicly available. 10 Q Upon receiving a copy of this document 11 from your attorneys, did you confirm with your 12 attorneys here today that there aren't any such 13 documents that had not been previously disclosed 14 that were relied on in preparing Exhibit 2 through 15 Exhibit 7? 16 MR. GARDNER: Objection. Form. 17 A I did not specifically ask them. 18 Q I want to ask you a few questions in 19 regards to the CREW FOIA request. 20 Who is Heather Samuelson? 21 A She was the liaison to the White House at 22 the State Department during that time frame.</p>
<p style="text-align: right;">250</p> <p>1 this meeting? 2 A I don't know. 3 Q Okay. Do you know what Mr. Finney had 4 reviewed to prepare for his testimony that he gave 5 in this case? 6 A I do not. 7 Q Okay. Did the State Department produce a 8 copy of this document in any other FOIA case prior 9 to today? 10 MR. GARDNER: Objection. Lack of 11 foundation. 12 A No. Or not that I'm aware of. 13 Q Is this document -- has this document 14 been made publicly available by the State 15 Department prior to today? 16 MR. GARDNER: Lack of foundation. 17 A No. 18 Q Are there other documents that are 19 referenced in Exhibit 2 through Exhibit 7 that 20 were relied on that had not been previously made 21 public, or had not been produced to Judicial Watch 22 in this case or in any other FOIA case by the</p>	<p style="text-align: right;">252</p> <p>1 Q Okay. And who did she report to while 2 she was at the State Department? 3 A I don't know. Probably the head of the 4 public affairs office. 5 Q How -- on what basis do you say that it 6 was -- that she reported to the head of the public 7 affairs office? 8 A I believe that the White House Liaison 9 normally sits in that office. 10 Q When did you review the records relevant 11 to the CREW FOIA request for preparing today's 12 deposition? 13 A Over the last couple of weeks. 14 Q And Sheryl Walter I believe you 15 identified before as the director of IPS. 16 Is that correct? 17 A Yes. 18 Q Okay. And was she the director of IPS 19 when the State Department received the CREW 20 request? 21 A I believe she was, but let me confirm 22 that.</p>

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<p style="text-align: right;">273</p> <p>1 State Department's request to Secretary Clinton's</p> <p>2 e-mails?</p> <p>3 A No, I did not.</p> <p>4 Q Did you ever speak with Mr. Stein about</p> <p>5 the processing, the State Department's processing</p> <p>6 of plaintiff's FOIA request at issue in this case?</p> <p>7 A No; other than to say that I was going to</p> <p>8 be the witness.</p> <p>9 Q Okay.</p> <p>10 MS. COTCA: I think that's all we have.</p> <p>11 MR. GARDNER: I think I said this before,</p> <p>12 but the witness will reserve the right to read and</p> <p>13 sign. Okay.</p> <p>14 VIDEO SPECIALIST: If there are no</p> <p>15 further questions then this ends the deposition,</p> <p>16 and we are going off the record at 18:05.</p> <p>17 (Off the record at 6:05 p.m.)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">275</p> <p>1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC</p> <p>2 I, Debra Ann Whitehead, the officer before whom</p> <p>3 the foregoing deposition was taken, do hereby</p> <p>4 certify that the foregoing transcript is a true and</p> <p>5 correct record of the testimony given; that said</p> <p>6 testimony was taken by me stenographically and</p> <p>7 thereafter reduced to typewriting under my</p> <p>8 direction; that reading and signing was requested;</p> <p>9 and that I am neither counsel for, related to, nor</p> <p>10 employed by any of the parties to this case and have</p> <p>11 no interest, financial or otherwise, in its outcome.</p> <p>12 IN WITNESS WHEREOF, I have hereunto set my hand and</p> <p>13 affixed my notarial seal this 19th day of June,</p> <p>14 2019.</p> <p>15</p> <p>16 My commission expires:</p> <p>17 September 14, 2023</p> <p>18 </p> <p>19 _____</p> <p>20 NOTARY PUBLIC IN AND FOR THE</p> <p>21 DISTRICT OF COLUMBIA</p> <p>22</p>
<p style="text-align: right;">274</p> <p>1 ACKNOWLEDGMENT OF DEPONENT</p> <p>2 I, ELISSA GUITRON PITTERLE, do hereby</p> <p>3 acknowledge that I have read and examined the</p> <p>4 foregoing testimony, and the same is a true,</p> <p>5 correct and complete transcription of the</p> <p>6 testimony given by me, and any corrections appear</p> <p>7 on the attached Errata sheet signed by me.</p> <p>8</p> <p>9 _____</p> <p>10 (DATE) (SIGNATURE)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	

Exhibit 6 – Pitterle Ex. 15

NO DISCERNIBLE CLASSIFICATION

Grosso, Elizabeth

From: Finney, Clarence N
Sent: Wednesday, August 27, 2014 2:00 PM
To: Austin-Ferguson, Kathleen T
Cc: Carlson, MaryKay L; Gittleson, Brett A; Hackett, John; Fischer, William P; Degnan, Kelly C; Bair, James P; Hickey, Lauren A
Subject: RE: Meeting with Spokesperson's Office

Kathleen,

See you this afternoon. Thanks

Clarence

From: Austin-Ferguson, Kathleen T
Sent: Wednesday, August 27, 2014 1:59 PM
To: Hickey, Lauren A; Finney, Clarence N
Cc: Carlson, MaryKay L; Gittleson, Brett A; Hackett, John; Fischer, William P; Degnan, Kelly C; Bair, James P
Subject: RE: Meeting with Spokesperson's Office

I will join you if that's ok.

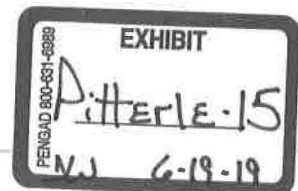
Kathleen Austin-Ferguson
Executive Assistant
M
Department of State
Tel: 202-647-1501

From: Hickey, Lauren A
Sent: Wednesday, August 27, 2014 1:57 PM
To: Finney, Clarence N
Cc: Carlson, MaryKay L; Gittleson, Brett A; Hackett, John; Fischer, William P; Austin-Ferguson, Kathleen T; Degnan, Kelly C; Bair, James P
Subject: RE: Meeting with Spokesperson's Office

Thanks Clarence. See you this afternoon.

Lauren

This email is UNCLASSIFIED.



From: Finney, Clarence N
Sent: Wednesday, August 27, 2014 1:56 PM
To: Hickey, Lauren A
Cc: Carlson, MaryKay L; Gittleson, Brett A; Hackett, John; Fischer, William P; Austin-Ferguson, Kathleen T; Degnan, Kelly

Grosso, Elizabeth

NO DISCERNIBLE CLASSIFICATION

NO DISCERNIBLE CLASSIFICATION

C; Bair, James P

Subject: RE: Meeting with Spokesperson's Office

Lauren,

Let's plan to meet today at 3:00 pm, HST room 7528, S/ES-IRM conference room. As discussed, the following members will be in attendance:

Alec Gerlach – Communications Advisor to the Secretary (PA)

Lauren A. Hickey – Public Affairs Specialist (PA)

Jamie Baier – Attorney Advisor (L/M)

MaryKay Carlson (S/ES-S Director)

Brett Gittleson (S/ES-IRM Director)

William Fischer (A Bureau – Agency Records Officer) – Awaiting attendance confirmation

(*) Spokesperson Jen Psaki and Deputy Spokesperson Marie Harf will not be attending.

Thanks

Clarence

Clarence N. Finney Jr.

Deputy Director, Executive Secretariat Staff (S/ES-S)

(202) 647-3574 (office)

From: Finney, Clarence N

Sent: Wednesday, August 27, 2014 11:52 AM

To: Austin-Ferguson, Kathleen T; Degnan, Kelly C

Cc: Carlson, MaryKay L; Gittleson, Brett A; Hickey, Lauren A; Hackett, John; Fischer, William P

Subject: RE: Meeting with Spokesperson's Office

+ Kelly Degnan and Kathleen Austin-Ferguson.

From: Finney, Clarence N

Sent: Wednesday, August 27, 2014 11:42 AM

To: Fischer, William P

Cc: Carlson, MaryKay L; Gittleson, Brett A; Hickey, Lauren A; Hackett, John

Subject: RE: Meeting with Spokesperson's Office

Bill,

I left you a voice mail concerning this meeting at 4:00 p.m. with the Spokesperson's Office. As the Agency Records Officer, it makes sense for you to attend this meeting as well.

Clarence

Grosso, Elizabeth

NO DISCERNIBLE CLASSIFICATION

NO DISCERNIBLE CLASSIFICATION

From: Hickey, Lauren A
Sent: Tuesday, August 26, 2014 11:25 AM
To: Macmanus, Joseph E; Finney, Clarence N; Gittleson, Brett A
Subject: Meeting with Spokesperson's Office

Hi all,

Rich Visek in L suggested I reach out to you to discuss some press talking points the Spokesperson's Office is writing related to Secretary Clinton's use of personal email. Rich thought you all would be able to offer some clarity. Would you be available to meet tomorrow? The meeting would be with me and Spokesperson Jen Psaki and Deputy Spokesperson Marie Harf. They can both do a 4pm meeting if that works for you all.

Best,
Lauren Hickey
U.S. Department of State
Bureau of Public Affairs
(w) 202-647-6180
(c) 202-631-9035

This email is UNCLASSIFIED.

Exhibit 7 – Samuelson Tr. Excerpts



Planet Depos[®]
We Make It *Happen*[™]

Transcript of Heather Samuelson

Date: June 13, 2019

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

Planet Depos

Phone: 888.433.3767

Email: transcripts@planetdepos.com

www.planetdepos.com

Transcript of Heather Samuelson
Conducted on June 13, 2019

1 (1 to 4)

1	IN THE UNITED STATES DISTRICT COURT	1	A P P E A R A N C E S
2	FOR THE DISTRICT OF COLUMBIA	2	ON BEHALF OF PLAINTIFF:
3	- - - - - x	3	RAMONA COTCA, ESQUIRE
4	JUDICIAL WATCH, INC., :	4	LAUREN M. BURKE, ESQUIRE
5	Plaintiff, :	5	ERIC LEE, ESQUIRE
6	v. : Civil Action No.	6	JUDICIAL WATCH, INC.
7	U.S. DEPARTMENT OF STATE, : 14-01242 (RCL)	7	425 Third Street, SW
8	Defendant. :	8	Suite 800
9	- - - - - X	9	Washington, DC 20024
10		10	(202) 646-5172
11	Videotaped Deposition of HEATHER SAMUELSON	11	
12	Washington, DC	12	ON BEHALF OF DEFENDANT:
13	Thursday, June 13, 2019	13	STEPHEN M. PEZZI, ESQUIRE
14	10:10 a.m.	14	U.S. DEPARTMENT OF JUSTICE
15		15	FEDERAL PROGRAMS BRANCH
16		16	1100 L Street, NW
17		17	Washington, DC 20005
18		18	(202) 305-7583
19		19	
20	Job No.: 230029	20	
21	Pages 1 - 261	21	
22	Reported by: Debra A. Whitehead	22	

2	Videotaped Deposition of HEATHER SAMUELSON,	4	A P P E A R A N C E S C O N T I N U E D
2	held at the offices of:	2	ON BEHALF OF DEFENDANT:
3		3	ELIZABETH SHAPIRO, ESQUIRE
4	PLANET DEPOS - DC	4	U.S. DEPARTMENT OF JUSTICE
5	1100 Connecticut Avenue, NW	5	CIVIL DIVISION
6	Suite 950	6	20 Massachusetts Avenue, NW
7	Washington, DC 20036	7	Washington, DC 20530
8	(888) 433-3767	8	(202) 514-2205
9		9	
10		10	ON BEHALF OF THE WITNESS:
11		11	HAL BREWSTER, ESQUIRE
12	Pursuant to notice, before Debra A. Whitehead,	12	BRIAN L. STEKLOFF, ESQUIRE
13	an Approved Reporter of the United States District	13	CALI COPE-KASTEN, ESQUIRE
14	Court and Notary Public of the District of Columbia.	14	WILKINSON WALSH & ESKOVITZ
15		15	2100 M Street, NW
16		16	10th Floor
17		17	Washington, DC 20036
18		18	(202) 847-4000
19		19	
20		20	
21		21	ALSO PRESENT:
22		22	JEREMY DINEEN, Video Specialist

Transcript of Heather Samuelson
Conducted on June 13, 2019

2 (5 to 8)

5	7
<p>1 C O N T E N T S</p> <p>2 EXAMINATION OF HEATHER SAMUELSON PAGE</p> <p>3 By Ms. Cotca 10</p> <p>4 By Mr. Brewster 256</p> <p>5</p> <p>6 EXHIBITS MARKED IN TODAY'S SESSION</p> <p>7 (Retained by Counsel)</p> <p>8 DEPOSITION EXHIBIT PAGE</p> <p>9 Exhibit 1 Subpoena to Testify at a 14</p> <p>10 Deposition in a Civil Action</p> <p>11 Exhibit 2 Organization-Careers Printout 18</p> <p>12 From state.gov</p> <p>13 Exhibit 3 E-mail String, Bates Nos. 42</p> <p>14 DOS_00005170_0001 to</p> <p>15 DOS_00005170_0002</p> <p>16 Exhibit 4 E-mail String Ending with E-mail 64</p> <p>17 Dated 12/11/12 from Ms. Mills</p> <p>18 to Mr. Johnson</p> <p>19 Exhibit 5 1/27/16 Letter from Mr. Grassley 71</p> <p>20 to The Honorable John F. Kerry</p> <p>21</p> <p>22</p>	<p>1 EXHIBITS MARKED IN TODAY'S SESSION - CONTINUED</p> <p>2 DEPOSITION EXHIBIT PAGE</p> <p>3 Exhibit 12 E-mail String Ending with E-mail 146</p> <p>4 Dated 11/11/14 from Mr. Visek</p> <p>5 to Ms. Duval</p> <p>6 Exhibit 13 3/27/15 Letter from Mr. Kendall 203</p> <p>7 to The Honorable Trey Gowdy,</p> <p>8 With Attachment</p> <p>9 Exhibit 14 FBI 302, Heather Samuelson 208</p> <p>10 Exhibit 15 12/5/14 Letter from Ms. Mills 211</p> <p>11 to The Honorable Patrick F.</p> <p>12 Kennedy</p> <p>13 Exhibit 16 12/3/14 E-mail from Mr. Fischer 216</p> <p>14 to Ms. Grafeld</p> <p>15</p> <p>16 EXHIBITS MARKED IN PRIOR SESSIONS</p> <p>17 (Retained by Counsel)</p> <p>18 DEPOSITION EXHIBIT PAGE</p> <p>19 Finney Exhibit 2 Notices 251</p> <p>20</p> <p>21</p> <p>22</p>
6	8
<p>1 EXHIBITS MARKED IN TODAY'S SESSION - CONTINUED</p> <p>2 DEPOSITION EXHIBIT PAGE</p> <p>3 Exhibit 6 E-mail String, Bates Nos. 76</p> <p>4 DOS_00000896_0001 to</p> <p>5 DOS_00000896_0002</p> <p>6 Exhibit 7 E-mail String Ending with E-mail 99</p> <p>7 Dated 12/27/12 from Ms. Walter</p> <p>8 to Mr. Samuelson</p> <p>9 Exhibit 8 E-mail String, Bates Nos. 108</p> <p>10 DOS_00000898_0001 to</p> <p>11 DOS_00000898_0002</p> <p>12 Exhibit 9 E-mail String, Bates Nos. 118</p> <p>13 DOS_00000901_0001 to</p> <p>14 DOS_00000901_0005</p> <p>15 Exhibit 10 E-mail String, Bates Nos. 119</p> <p>16 DOS_00000899_0001 to</p> <p>17 DOS_00000899_0004</p> <p>18 Exhibit 11 E-mail String, Bates Nos. 125</p> <p>19 DOS_00000902_0001 to</p> <p>20 DOS_00000902_0005</p> <p>21</p> <p>22</p>	<p>1 P R O C E E D I N G S</p> <p>2 VIDEO SPECIALIST: Here begins Disk</p> <p>3 Number 1 in the videotaped deposition of Heather</p> <p>4 Samuelson in the matter of Judicial Watch, Inc., V</p> <p>5 the U.S. Department of State, in the U.S. District</p> <p>6 Court for the District of Columbia, Case Number</p> <p>7 14-01242.</p> <p>8 Today's date is June 13, 2019. The time</p> <p>9 on the video monitor is 10:10 a.m. The</p> <p>10 videographer today is Jeremy Dineen, representing</p> <p>11 Planet Depos. This video deposition is taking</p> <p>12 place at the offices of Planet Depos, 1100</p> <p>13 Connecticut Avenue, Northwest, Suite 950, in</p> <p>14 Washington, DC.</p> <p>15 Would counsel please voice-identify</p> <p>16 themselves and state whom they represent.</p> <p>17 MS. COTCA: Ramona Cotca, for the</p> <p>18 plaintiff.</p> <p>19 MS. BURKE: Lauren Burke, for the</p> <p>20 plaintiff.</p> <p>21 MR. LEE: Eric Lee, for the plaintiffs.</p> <p>22 MS. SHAPIRO: Elizabeth Shapiro, on</p>

Transcript of Heather Samuelson

3 (9 to 12)

Conducted on June 13, 2019

<p style="text-align: right;">9</p> <p>1 behalf of the Department of State and the witness 2 in her capacity as a former State Department 3 official. 4 MR. PEZZI: Stephen Pezzi, from the 5 Department of Justice, also on behalf of defendant 6 the Department of State, and on behalf of the 7 witness in her official capacity as a former 8 government employee. 9 MS. COPE-KASTEN: Cali Cope-Kasten, on 10 behalf of Heather Samuelson. 11 MR. STEKLOFF: Brian Stekloff, on behalf 12 of Ms. Samuelson. 13 MR. BREWSTER: Hal Brewster, also on 14 behalf of Ms. Samuelson. 15 THE WITNESS: Heather Samuelson. 16 VIDEO SPECIALIST: Thank you. 17 The court reporter today is Debbie 18 Whitehead, representing Planet Depos. Would the 19 reporter please swear in the witness. 20 HEATHER SAMUELSON, 21 having been duly sworn, testified as follows: 22 EXAMINATION BY COUNSEL FOR PLAINTIFF</p>	<p style="text-align: right;">11</p> <p>1 MS. COTCA: Okay. And just in response 2 to that, I guess I would just state that obviously 3 Ms. Samuelson has her attorneys who are 4 representing her. You have the opportunity to 5 hear what's being asked. You have the opportunity 6 to object. And so if you believe that there is 7 any question that's delving on privilege, and if 8 you want to make an objection and an instruction 9 to your client, you certainly have the opportunity 10 to do so here today. 11 MR. BREWSTER: Thank you. 12 MS. COTCA: Okay. 13 All right. Is that it? 14 MR. BREWSTER: That's it. 15 BY MS. COTCA: 16 Q Okay. Ms. Samuelson, have you ever been 17 deposed before? 18 A I have not. 19 Q Okay. But you're an attorney? 20 A I am. 21 Q Okay. And just for the record, when did 22 you obtain your J.D., or become an attorney?</p>
<p style="text-align: right;">10</p> <p>1 BY MS. COTCA: 2 Q All right. Good morning, Ms. Samuelson. 3 For the record, can you please state your name and 4 spell your name. 5 A Heather Samuelson. H-E-A-T-H-E-R 6 S-A-M-U-E-L-S-O-N. 7 MR. BREWSTER: Ramona, I don't want to 8 interrupt, but can I just memorialize what we 9 discussed before? 10 MS. COTCA: I was just going to give you 11 the opportunity to do that. 12 MR. BREWSTER: Okay. Thank you so much. 13 As counsel for plaintiff and I discussed 14 off the record beforehand, Ms. Samuelson is an 15 attorney for Hillary Clinton, and there may be 16 some testimony today that -- questions today that 17 try -- attempt to elicit privileged information, 18 or embark upon -- not that you're attempting to. 19 We will assert privilege if need be. But 20 if she does answer any question, whether privilege 21 is asserted or not, just the record reflect it is 22 not an intentional waiver of privilege.</p>	<p style="text-align: right;">12</p> <p>1 A I -- I graduated law school in 2008. 2 Q Okay. Since you haven't been deposed 3 before, I'm sure you're familiar with the rules of 4 deposition, the ground rules for them. But I'll 5 just go through them briefly. 6 One is, you have been sworn in to 7 obviously been asked to answer everything 8 truthfully. 9 Is there any reason why you believe that 10 you would not be able to answer any of the 11 questions truthfully here today? 12 A No. 13 Q Okay. Also, you see the court reporter, 14 and she is here and she is transcribing everything 15 that's being said today on the record. So we have 16 a clear transcript, it's important that we don't 17 speak over each other. 18 I will do my best to not interrupt you as 19 you are answering your question -- my questions. 20 But, also, I would ask, sometimes you may 21 anticipate the question that's being asked, but 22 just let me finish asking it for purposes of</p>

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<p>33</p> <p>1 your background, because you served in different 2 capacity that are relevant here.</p> <p>3 So you left the White House liaison's 4 office you said in March of 2013?</p> <p>5 A I did.</p> <p>6 Q Okay. And where did you go from there?</p> <p>7 A I went to White House counsel's office.</p> <p>8 Q Okay. And who was the White house 9 counsel at the time?</p> <p>10 MR. BREWSTER: Objection. Relevance.</p> <p>11 Q You may answer.</p> <p>12 A Kathy Ruemmler.</p> <p>13 Q And what was your position in the 14 counsel's -- in the White House counsel's office?</p> <p>15 MR. BREWSTER: Same objection.</p> <p>16 A I was assistant counsel.</p> <p>17 Q You were assisting which counsel?</p> <p>18 A I didn't have a specific counsel. That 19 was just my title, assistant counsel.</p> <p>20 Q Assistant counsel. Okay.</p> <p>21 So then if you could describe, what did 22 you do as assistant counsel?</p>	<p>35</p> <p>1 Q I think that would have been March 11, 2 2013.</p> <p>3 MR. BREWSTER: Objection. Misstates 4 evidence.</p> <p>5 No, I'm wrong about the year. Forgive 6 me. Objection withdrawn.</p> <p>7 MS. COTCA: I did actually pull up the 8 calendar to figure out the date.</p> <p>9 Q And then in April of 2014 when you left 10 the White House counsel, employment-wise where did 11 you go after that?</p> <p>12 A In May 2014 I became one of the 13 Secretary's personal counsels.</p> <p>14 Q Okay. And who hired you as her personal 15 counsel?</p> <p>16 And when you say "personal counsel," you 17 are mean an attorney?</p> <p>18 A Correct. Sorry.</p> <p>19 Q That's okay. And who hired you?</p> <p>20 A Cheryl Mills.</p> <p>21 Q And did you have a retainer agreement -- 22 MR. BREWSTER: Objection.</p>
<p>34</p> <p>1 MR. BREWSTER: Objection. Outside the 2 scope of permissible discovery.</p> <p>3 I will permit the witness to answer.</p> <p>4 A I continued working on vetting of 5 nominations, as well as had an ethics and 6 compliance portfolio.</p> <p>7 Q And who did you report to in the White 8 House counsel's office?</p> <p>9 MR. BREWSTER: Same objection.</p> <p>10 MR. PEZZI: Same objection.</p> <p>11 A I reported to the deputy counsel.</p> <p>12 Q And was that Caroline Shank at the time?</p> <p>13 A It was not.</p> <p>14 Q Who was the deputy counsel?</p> <p>15 A It was Leslie Kiernan.</p> <p>16 Q And how long did you remain at the White 17 House counsel's office?</p> <p>18 A Until April of 2014.</p> <p>19 Q Did you begin at the White House 20 counsel's office in March of 2013, right after you 21 left the State Department?</p> <p>22 A Yes. That following Monday.</p>	<p>36</p> <p>1 Q -- when you were hired?</p> <p>2 MR. BREWSTER: Objection. Relevance.</p> <p>3 Q You may answer.</p> <p>4 A I did.</p> <p>5 Q Okay. And you still have, the retainer 6 agreement, it's still current?</p> <p>7 MR. BREWSTER: Same objection.</p> <p>8 A Correct.</p> <p>9 Q And when you were hired by Ms. Mills to 10 serve as personal counsel for Secretary Clinton, 11 obviously we understand that you served in that 12 capacity with respect to e-mails that Secretary 13 Clinton returned to the State Department.</p> <p>14 Is that correct?</p> <p>15 I don't -- I don't want to go into any 16 other matters that you represented or that you 17 were hired to represent Secretary Clinton. I just 18 want to establish your role with respect to 19 reviewing her e-mails and the return of her 20 e-mails to the State Department.</p> <p>21 MR. BREWSTER: Objection. Vague. 22 Could you restate the question? I'm not</p>

Conducted on June 13, 2019

<p>181</p> <p>1 Q Can you answer that?</p> <p>2 A Can -- whether we created a list at the</p> <p>3 beginning of the review process?</p> <p>4 MR. STEKLOFF: Yeah. I don't -- if you</p> <p>5 can answer that without divulging privilege, you</p> <p>6 can answer it.</p> <p>7 A We discussed the review process, but I do</p> <p>8 not believe a list was created at the beginning of</p> <p>9 the process.</p> <p>10 Q Was a list created at any point during</p> <p>11 the review process with the search terms that were</p> <p>12 used during the review process of Secretary</p> <p>13 Clinton's e-mails?</p> <p>14 A I don't recall a list being created at</p> <p>15 any time during the process, no.</p> <p>16 Q Was a list created, after the process was</p> <p>17 completed, of the search terms that were used</p> <p>18 during the review of Secretary Clinton's e-mails?</p> <p>19 A Not a complete list.</p> <p>20 Q Okay. So there was -- there is an</p> <p>21 incomplete list?</p> <p>22 Is that what I understand your testimony</p>	<p>183</p> <p>1 So we're happy to have you answer if she</p> <p>2 used specific search terms. But we have to</p> <p>3 instruct her not to answer that question.</p> <p>4 MS. COTCA: And that is attorney-client</p> <p>5 privilege that you are asserting?</p> <p>6 MR. STEKLOFF: Yes.</p> <p>7 MR. BREWSTER: And attorney work product.</p> <p>8 MS. COTCA: I don't -- I don't see the</p> <p>9 attorney-client privilege on that one.</p> <p>10 MR. STEKLOFF: Okay.</p> <p>11 I don't think she can answer the question</p> <p>12 without divulging -- like, her -- her answer would</p> <p>13 be based on attorney-client privileged</p> <p>14 information.</p> <p>15 MS. COTCA: Okay.</p> <p>16 BY MS. COTCA:</p> <p>17 Q When was any list, whether incomplete, of</p> <p>18 the search terms that were used to review</p> <p>19 Secretary Clinton's e-mails created?</p> <p>20 MR. BREWSTER: I think that's okay.</p> <p>21 MR. STEKLOFF: You can -- you can answer</p> <p>22 that question.</p>
<p>182</p> <p>1 to be?</p> <p>2 MR. BREWSTER: Objection. Calls for</p> <p>3 privileged information.</p> <p>4 If you can ask for specific search terms,</p> <p>5 I think that's -- we'll be able to answer those</p> <p>6 questions.</p> <p>7 (A discussion was held off the record.)</p> <p>8 BY MS. COTCA:</p> <p>9 Q So, Ms. Samuelson, your answer to my</p> <p>10 earlier question whether a list was created after</p> <p>11 the review process of the search terms used to</p> <p>12 review Secretary Clinton's e-mails is, Not a</p> <p>13 complete list.</p> <p>14 So my followup question to that is, was</p> <p>15 there an incomplete list created of the search</p> <p>16 terms that were used to review Secretary Clinton's</p> <p>17 e-mails after the review was complete?</p> <p>18 MR. BREWSTER: Wait one second before you</p> <p>19 answer.</p> <p>20 MR. STEKLOFF: That -- that question</p> <p>21 can't be answered without -- within -- without</p> <p>22 violating attorney-client privilege.</p>	<p>184</p> <p>1 A I did an after-action memo --</p> <p>2 Q And --</p> <p>3 A -- for lack of a better word.</p> <p>4 Q And the after-action memo, when did</p> <p>5 you -- when did you do that?</p> <p>6 A It was after we provided the e-mails to</p> <p>7 the department.</p> <p>8 Q Okay.</p> <p>9 A So I could memorialize.</p> <p>10 Q Okay. So can you narrow down the time</p> <p>11 frame? Shortly after you provided the e-mails, or</p> <p>12 a year later?</p> <p>13 A I -- it was shortly after, but I don't</p> <p>14 recall the exact date.</p> <p>15 Q Okay. Was it in December of 2014?</p> <p>16 A It may have been.</p> <p>17 Q Okay. I want to ask you, with respect to</p> <p>18 the search terms that you used to review Secretary</p> <p>19 Clinton's e-mails, were there any discussions that</p> <p>20 you, Ms. Mills, or Mr. Kendall had with the State</p> <p>21 Department as to which -- what search terms should</p> <p>22 be used?</p>

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<p>185</p> <p>1 MR. BREWSTER: You're saying with the</p> <p>2 State Department, to be clear?</p> <p>3 MS. COTCA: With the State Department</p> <p>4 officials. Correct.</p> <p>5 MR. BREWSTER: Okay.</p> <p>6 A Again, the search terms that I think</p> <p>7 you're referring to were really just a catch-all</p> <p>8 to make sure that I didn't miss anything along the</p> <p>9 way.</p> <p>10 I don't recall having any conversations</p> <p>11 with the State Department on those.</p> <p>12 Q Do you know if Ms. Mills or Mr. Kendall</p> <p>13 had any discussions with anybody at the State</p> <p>14 Department about what the appropriate search terms</p> <p>15 should be used to review Secretary Clinton's</p> <p>16 e-mails?</p> <p>17 MR. BREWSTER: Objection. Form.</p> <p>18 A I don't think the State Department</p> <p>19 provided us with search terms.</p> <p>20 Q Did you request from the State Department</p> <p>21 for them to provide you with search terms to use</p> <p>22 to review Secretary Clinton's e-mails?</p>	<p>187</p> <p>1 Department in December of 2014? Is that --</p> <p>2 A Correct.</p> <p>3 Q Okay. And what about Ms. Mills or</p> <p>4 Mr. Kendall, if you know, who they were in touch</p> <p>5 with at the State Department during this process</p> <p>6 for purposes of the review of Secretary Clinton's</p> <p>7 e-mails?</p> <p>8 MR. BREWSTER: Objection. Form and</p> <p>9 foundation.</p> <p>10 A I don't know.</p> <p>11 Q Do you know if -- well, let me ask you.</p> <p>12 Were you in contact with Under Secretary Patrick</p> <p>13 Kennedy for purposes of returning the e-mails to</p> <p>14 the State Department?</p> <p>15 MR. BREWSTER: Objection. Form.</p> <p>16 A My recollection is I spoke with</p> <p>17 Mr. Kennedy's chief of staff.</p> <p>18 Q And who was that at the time?</p> <p>19 A Kathleen Austin-Ferguson.</p> <p>20 Q Did you speak with anybody else at the</p> <p>21 State Department during this time frame about</p> <p>22 returning the e-mails to the State Department?</p>
<p>186</p> <p>1 A No. We were informed by the State</p> <p>2 Department that it was each individual's personal</p> <p>3 responsibility to go through their e-mail and make</p> <p>4 the determination of what is personal and what is</p> <p>5 work related, based on guidance in the Foreign</p> <p>6 Affairs manual.</p> <p>7 Q And who from the State Department</p> <p>8 informed you of that?</p> <p>9 A I don't recall.</p> <p>10 Q Was there a point of contact or certain</p> <p>11 individuals who either you, Ms. Mills, or</p> <p>12 Mr. Kendall communicated with at the State</p> <p>13 Department during this process, for purposes of</p> <p>14 the review of Secretary Clinton's e-mails?</p> <p>15 A So I only communicated with -- with</p> <p>16 individuals at the department after the review was</p> <p>17 conducted in my -- in my recollection.</p> <p>18 Q Okay.</p> <p>19 A And that was about providing the</p> <p>20 materials to the department.</p> <p>21 Q Okay. That was when delivery was made of</p> <p>22 the 30-some-thousand e-mails to the State</p>	<p>188</p> <p>1 A I may have. She's just the only person</p> <p>2 that I remember.</p> <p>3 Q So going back to the search terms that</p> <p>4 you used during the review process of Secretary</p> <p>5 Clinton's e-mails. I want to ask you if you used</p> <p>6 specific terms if you recall, sitting here today.</p> <p>7 Did you use the search term "ambassador"?</p> <p>8 A I may have.</p> <p>9 Q Sitting here today, do you know if you</p> <p>10 used the search term "ambassador" or not?</p> <p>11 A I searched a number of ambassadors by</p> <p>12 name, but I -- I can't tell you, sitting here</p> <p>13 today, if I used that search term or not.</p> <p>14 Q So I meant specific -- I'm not asking you</p> <p>15 for specific names who were ambassadors. But the</p> <p>16 term "ambassador," did you use that search term</p> <p>17 during your review of Secretary Clinton's e-mails?</p> <p>18 A I may have.</p> <p>19 Q Do you still have a copy of the</p> <p>20 after-action memo that you created in or around</p> <p>21 December of 2014?</p> <p>22 A In my possession?</p>

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<p>189</p> <p>1 Q Yes. You are still serving as the</p> <p>2 attorney for Secretary Clinton. Correct?</p> <p>3 A Correct.</p> <p>4 Q Okay. So do you still have a copy of the</p> <p>5 after-action memo that you created in or around</p> <p>6 December of 2014 memorializing the search you did</p> <p>7 for Secretary Clinton's e-mails?</p> <p>8 A I may.</p> <p>9 Q Who else has a copy of the after-action</p> <p>10 memo that you provided to?</p> <p>11 A Well, it was -- it was with her</p> <p>12 attorneys. I can't speak to who -- who kept the</p> <p>13 memo.</p> <p>14 Q Okay. So when you're referring to "her</p> <p>15 attorneys," are you just referring to Cheryl Mills</p> <p>16 and David Kendall?</p> <p>17 A Yes, I'm referring to David Kendall, yes.</p> <p>18 Q Okay. Any -- any other attorneys?</p> <p>19 A Not that I can think of for this.</p> <p>20 Q Did you review your after-action memo</p> <p>21 that you created in or around December of 2014 in</p> <p>22 preparation for today's deposition?</p>	<p>191</p> <p>1 Q Okay. And how did you search for</p> <p>2 Ambassador Susan Rice? How did you use that</p> <p>3 search term?</p> <p>4 A Well, first, as I said, I had sorted her</p> <p>5 Inbox by to and from so I would look at any</p> <p>6 e-mails she had between herself and Secretary</p> <p>7 Rice. And then I also searched for names of</p> <p>8 senior department officials.</p> <p>9 Q So when you did this search for the names</p> <p>10 of senior department officials, did you just</p> <p>11 use -- use the word "Rice" alone?</p> <p>12 A I -- I couldn't tell you today. It was</p> <p>13 five years ago.</p> <p>14 Q Okay. But that is information that you</p> <p>15 have available that would be contained in the</p> <p>16 after-action memo that you created in December of</p> <p>17 2014.</p> <p>18 MR. BREWSTER: Objection.</p> <p>19 Q Is that correct?</p> <p>20 MR. BREWSTER: Calls for privileged</p> <p>21 information for attorney work product.</p> <p>22 MS. COTCA: I'm just saying that she has</p>
<p>190</p> <p>1 MR. BREWSTER: Objection. Calls for</p> <p>2 privileged information.</p> <p>3 I'll instruct her not to answer.</p> <p>4 Q Okay. Sitting here today, you're not</p> <p>5 able to say for sure that you used the term</p> <p>6 "ambassador" as a key search term to review</p> <p>7 Secretary Clinton's e-mails. Is that right?</p> <p>8 A That's correct. But, again, the keywords</p> <p>9 were really just spot checking, to make sure we</p> <p>10 didn't miss anything in the full review that we</p> <p>11 already went over.</p> <p>12 Q And I understand your testimony and what</p> <p>13 you're saying about that. But I'm trying to get</p> <p>14 an understanding of specific key -- keyword terms</p> <p>15 that were used to search Secretary Clinton's</p> <p>16 e-mails that are relevant to Judicial Watch's FOIA</p> <p>17 request in this case.</p> <p>18 Did you use "Rice" --</p> <p>19 A I did.</p> <p>20 Q -- as a search term?</p> <p>21 A I did. She was one of the names that I</p> <p>22 searched.</p>	<p>192</p> <p>1 the after action -- I'm asking that -- for her to</p> <p>2 confirm that she has the after-action memo that</p> <p>3 she created in or around December of 2014.</p> <p>4 MR. BREWSTER: Your question as phrased</p> <p>5 is asking for the contents of a privileged memo.</p> <p>6 MS. COTCA: No. Let me rephrase it,</p> <p>7 if -- if that's the way that you're understanding</p> <p>8 the question.</p> <p>9 BY MS. COTCA:</p> <p>10 Q My question is, would you be able to</p> <p>11 determine by looking at your after-action memo</p> <p>12 that you created in December of 2014 whether you</p> <p>13 used the term "Rice" alone as part of the keyword</p> <p>14 search?</p> <p>15 MR. BREWSTER: Objection. Calls for</p> <p>16 privileged information. I'm going to instruct her</p> <p>17 not to answer.</p> <p>18 MS. COTCA: And, again, what's the</p> <p>19 privilege that you are asserting for that?</p> <p>20 MR. BREWSTER: Attorney work product.</p> <p>21 Q Did you use the search term "U.S.U N/W"?</p> <p>22 A Not that I recall.</p>

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<p style="text-align: right;">257</p> <p>1 account. But my practice was to use my state.gov.</p> <p>2 Q Can I direct your attention to what</p> <p>3 plaintiff's counsel marked as Exhibit 14, which is</p> <p>4 your FBI 302.</p> <p>5 And could I look -- have you look at Page</p> <p>6 4, under a subsection that says, Cul and Review of</p> <p>7 E-mails. The second paragraph down, the last</p> <p>8 sentence. And I'll read that to you. "Lastly,</p> <p>9 she," meaning Ms. Samuelson, "searched the</p> <p>10 remaining e-mails for keywords that included terms</p> <p>11 such as 'Afghanistan,' 'Libya,' and 'Benghazi.'"</p> <p>12 Do you see that?</p> <p>13 A I do.</p> <p>14 Q And you were asked earlier questions</p> <p>15 about the keyword searches that you performed as</p> <p>16 the third step in your review process.</p> <p>17 Do you recall that?</p> <p>18 A I do recall.</p> <p>19 Q Beyond those that were listed in your</p> <p>20 302, the keyword searches that were listed in your</p> <p>21 302 and those that you articulated in your</p> <p>22 testimony, do you recall any other keyword</p>	<p style="text-align: right;">259</p> <p>1 MR. BREWSTER: No further questions.</p> <p>2 MS. COTCA: That's it.</p> <p>3 MR. PEZZI: And no questions from the</p> <p>4 government.</p> <p>5 VIDEO SPECIALIST: If there are no</p> <p>6 further questions, then this ends the deposition</p> <p>7 and we are going off the record at 17:12.</p> <p>8 (Off the record at 5:12 p.m.)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">258</p> <p>1 searches that you performed?</p> <p>2 A I recall that I also searched for</p> <p>3 Tripoli. I recall that I also searched for</p> <p>4 Libyans. I don't recall other search terms,</p> <p>5 sitting here today.</p> <p>6 Q Would there be anywhere that you could go</p> <p>7 to -- beyond what is listed in your 302 and your</p> <p>8 testimony today, to determine what search terms</p> <p>9 you used in the third step of your review?</p> <p>10 A No.</p> <p>11 Q And does that include the after-action</p> <p>12 memo?</p> <p>13 A Yes.</p> <p>14 Q Do you have any evidence or personal</p> <p>15 knowledge that Secretary Clinton used her personal</p> <p>16 e-mail address to evade FOIA?</p> <p>17 MS. COTCA: Objection.</p> <p>18 A No.</p> <p>19 Q Do you have any personal knowledge of the</p> <p>20 Department of State's efforts to settle this case</p> <p>21 in late 2014 and early 2015?</p> <p>22 A No.</p>	<p style="text-align: right;">260</p> <p>1 ACKNOWLEDGMENT OF DEPONENT</p> <p>2 I, HEATHER SAMUELSON, do hereby</p> <p>3 acknowledge that I have read and examined the</p> <p>4 foregoing testimony, and the same is a true,</p> <p>5 correct and complete transcription of the</p> <p>6 testimony given by me, and any corrections appear</p> <p>7 on the attached Errata sheet signed by me.</p> <p>8</p> <p>9 _____</p> <p>10 (DATE) (SIGNATURE)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

Exhibit 8 – Samuelson Ex. 3

From: H <hdr22@clintonemail.com>
Sent: Wednesday, January 28, 2009 9:33 PM
To: Petraeus, David H GEN MIL USA USCENTCOM CCCC/CCCC
Subject: Re: Follow up

David--Sorry to be so tardy in responding. I've had blackberry blues. I can't use mine all day long since my whole office is a SCIF. I don't yet have a computer and I had to change my address and lost some of my traffic.

[REDACTED]
[REDACTED] All the best.

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

From: "Petraeus, David H. GEN USA" <petraedh@centcom.mil>

Date: Sun, 25 Jan 2009 07:55:52

To: <hr15@att.blackberry.net>

Subject: RE: Follow up

Madame Sec: Thx again for keeping [REDACTED]
[REDACTED]

Break. Strongly recommend that [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] Vr - Dave

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

From: hr15@att.blackberry.net [mailto:hr15@att.blackberry.net]

Sent: Sunday, January 18, 2009 1:46 PM

To: Petraeus, David H. GEN USA

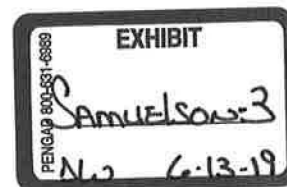
Subject: Re: Follow up

Glad it worked out. Look forward to talking w you after the 20th.

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

From: David Petraeus

To: Hillary Clinton



Sent: Jan 18, 2009 6:24 AM

Subject: RE: Follow up

Thx for making it happen in Saudi Arabia. Amb Fraker has been asked to stay on until April to help with transition. Great news -

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

From: hr15@att.blackberry.net [mailto:hr15@att.blackberry.net]

Sent: Wednesday, January 14, 2009 9:23 PM

To: Petraeus, David H. GEN USA

Subject: Re: Follow up

I asked that he be kept and was told that he would be. Let me know if you hear of any glitches.

Glad to hear that you and Richard are starting to work together. Best, H -----Original Message-----

From: David Petraeus

To: Hillary Clinton

Sent: Jan 14, 2009 3:14 AM

Subject: RE: Follow up

P.S. Any feedback on possibility of keeping AMB Ford Fraker on the job in Riyadh until his replacement is confirmed? As you'll recall, this was a personal request from King Abdullah. Best - Dave

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

From: hr15@att.blackberry.net [mailto:hr15@att.blackberry.net]

Sent: Saturday, January 10, 2009 3:57 PM

To: Petraeus, David H. GEN USA

Subject: Follow up

Dear Dave,

Thanks for giving me so much of your time the last two nights. I appreciated our conversations and enjoyed the chance to see you and Richard becoming acquainted. I'm looking forward to working w you both.

If there is ever anything you need or want me to know, pls use this personal email address. All the best, Hillary

Exhibit 9 – Samuelson Ex. 12

C05845322 UNCLASSIFIED U.S. Department of State Case No. F-2015-05048 Doc No. C05845322 Date: 02/04/2016
Obtained by Judicial Watch, Inc. via FOIA

Edwards, Ronako

From: Visek, Richard C
Sent: Thursday, September 11, 2014 6:01 AM
To: Duval, Catherine S
Subject: Fw: Following Up

RELEASE IN PART
B6

Could we cut into the lwysr mtg and do 4?

From: Cheryl Mills [mailto:]
Sent: Thursday, September 11, 2014 02:56 AM Eastern Standard Time
To: Visek, Richard C
Cc: Joanne Laszczyk <jlaszczyk@state.gov>
Subject: Re: Following Up

B6

B6

Rich

I got double booked at 11am - can you do noon, 3pm or 4pm?

Copying Joanne so it gets locked on my sked for today.

Best.

REVIEW AUTHORITY: Frank Tumminia, Senior Reviewer

Best.

cdm

On Sep 8, 2014, at 2:13 PM, "Visek, Richard C" <VisekRC@state.gov> wrote:

Hi Cheryl - Can we try for 11am on Thursday? Regards, Rich

From: Cheryl Mills [mailto:]
Sent: Monday, September 08, 2014 11:08 AM
To: Visek, Richard C
Subject: Re: Following Up

Rich

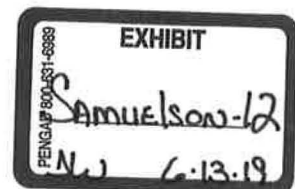
I appreciate connecting this morning. I am free to follow-up this week so let me know what works for you.

In the interim, I will reflect on the direction you shared that Department anticipates pursuing and how we can be of assistance.

thank you so much.

cdm

On Fri, Sep 5, 2014 at 11:21 AM, Cheryl Mills <[]> wrote:
815am Monday would be ideal.



B6

B6

C05845322 UNCLASSIFIED U.S. Department of State Case No. F-2015-05048 Doc No. C05845322 Date: 02/04/2016
Obtained by Judicial Watch, Inc. via FOIA

What number can I reach you at?

cdm

On Sep 5, 2014, at 9:48 AM, "Vissek, Richard C" <VissekRC@state.gov> wrote:

Would 8:15 or 9am on Monday be doable?

From: Cheryl Mills [<mailto:>]
Sent: Friday, September 05, 2014 9:14 AM
To: Vissek, Richard C
Subject: Re: Following Up

B6

Thanks - late today works or 8am monday - let me know which you prefer.

best.

cdm

On Fri, Sep 5, 2014 at 9:08 AM, Vissek, Richard C <VissekRC@state.gov> wrote:

Hi Cheryl - Let me know what would be a good time for us to continue our conversation from yesterday regarding the below. I'm free this afternoon, except for 2:30-3:30. Otherwise, we could look to set up a time for early next week. Regards, Rich

From: Cheryl Mills [<mailto:>]
Sent: Friday, August 22, 2014 9:20 AM
To: Wade, David E
Cc: Vissek, Richard C; Philippe Reines
Subject: Following Up

B6

Dear David (and Rich)

C05845322 UNCLASSIFIED U.S. Department of State Case No. F-2015-05048 Doc No. C05845322 Date: 02/04/2016
Obtained by Judicial Watch, Inc. via FOIA

I wanted to follow up on your request last month about getting hard copies of Secretary Clinton's emails to/from accounts ending in ".gov" for her tenure at the Department.

I will be able to get that to you, to the best of its availability. Given the volume, it will take some time to do but I wanted to let you know that I am working to get it to you.

Hope you are having a great end to your summer.

Best,

cdm

(Sorry for not copying Jen, I don't have her email).

Exhibit 10 – Smilansky Tr. Excerpts



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Transcript of Gene Smilansky

Date: June 11, 2019

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

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Phone: 888.433.3767

Email: transcripts@planetdepos.com

www.planetdepos.com

Transcript of Gene Smilansky
Conducted on June 11, 2019

1 (1 to 4)

1	IN THE UNITED STATES DISTRICT COURT	1	A P P E A R A N C E S
2	FOR THE DISTRICT OF COLUMBIA	2	ON BEHALF OF PLAINTIFF:
3	- - - - - x	3	LAUREN M. BURKE, ESQUIRE
4	JUDICIAL WATCH, INC., :	4	RAMONA COTCA, ESQUIRE
5	Plaintiff, :	5	JUDICIAL WATCH, INC.
6	v. : Civil Action No.	6	425 Third Street, SW
7	U.S. DEPARTMENT OF STATE, : 14-01242 (RCL)	7	Suite 800
8	Defendant. :	8	Washington, DC 20024
9	- - - - - X	9	(202) 646-5172
10		10	
11	Videotaped Deposition of GENE SMILANSKY	11	ON BEHALF OF DEFENDANT:
12	Washington, DC	12	JOSHUA E. GARDNER, ESQUIRE
13	Tuesday, June 11, 2019	13	STEPHEN M. PEZZI, ESQUIRE
14	10:43 a.m.	14	U.S. DEPARTMENT OF JUSTICE
15		15	FEDERAL PROGRAMS BRANCH
16		16	1100 L Street, NW
17		17	Washington, DC 20005
18		18	(202) 305-7583
19		19	
20	Job No.: 242901	20	
21	Pages 1 - 148	21	
22	Reported by: Debra A. Whitehead	22	

2	Videotaped Deposition of GENE SMILANSKY, held	4	A P P E A R A N C E S C O N T I N U E D
2	at the offices of:	2	ON BEHALF OF DEFENDANT:
3		3	ELIZABETH SHAPIRO, ESQUIRE
4	PLANET DEPOS - DC	4	U.S. DEPARTMENT OF JUSTICE
5	1100 Connecticut Avenue, NW	5	CIVIL DIVISION
6	Suite 950	6	20 Massachusetts Avenue, NW
7	Washington, DC 20036	7	Washington, DC 20530
8	(888) 433-3767	8	(202) 514-2205
9		9	- and -
10		10	ELIZABETH GROSSO, ESQUIRE
11		11	CLIFTON M. JOHNSON, ESQUIRE
12	Pursuant to notice, before Debra A. Whitehead,	12	MICHAEL LIEBERMAN, ESQUIRE
13	an Approved Reporter of the United States District	13	UNITED STATES DEPARTMENT OF STATE
14	Court and Notary Public of the District of Columbia.	14	2201 C Street, NW
15		15	Washington, DC 20520
16		16	(202) 647-6371
17		17	
18		18	
19		19	ALSO PRESENT:
20		20	JEREMY DINEEN, Video Specialist
21		21	
22		22	

Transcript of Gene Smilansky
Conducted on June 11, 2019

2 (5 to 8)

<p style="text-align: right;">5</p> <p style="text-align: center;">C O N T E N T S</p> <p>EXAMINATION OF GENE SMILANSKY PAGE</p> <p>By Ms. Burke 8</p> <p style="text-align: center;">E X H I B I T S</p> <p style="text-align: center;">(Retained by Counsel)</p> <p>SMILANSKY DEPOSITION EXHIBIT PAGE</p> <p>Exhibit 1 E-mail String, Bates No. 90</p> <p>DOS-00000897_001</p> <p>Exhibit 2 Declaration of Richard C. Visek 93</p> <p>Exhibit 3 E-mail String Ending with E-mail 95</p> <p>Dated 5/1/13 from Mr. Gittleson</p> <p>to Mr. Smilansky</p> <p>Exhibit 4 E-mail String, Bates Nos. 97</p> <p>DOS_00000898_0001 to</p> <p>DOS_00000898_0002</p> <p>Exhibit 5 E-mail String, Bates Nos. 103</p> <p>DOS_00000899_0001 to</p> <p>DOS_00000899_0004</p> <p>Exhibit 6 E-mail String, Bates Nos. 110</p> <p>DOS_00000901_0001 to</p> <p>DOS_00000901_0005</p> <p style="text-align: right;">6</p>	<p style="text-align: right;">7</p> <p style="text-align: center;">P R O C E E D I N G S</p> <p>VIDEO SPECIALIST: Here begins Disk</p> <p>Number 1 in the videotaped deposition of Gene</p> <p>Smilansky in the matter of Judicial Watch, Inc.,</p> <p>versus the U.S. Department of State, in the U.S.</p> <p>District Court for the District of Columbia, Case</p> <p>Number 14-01242.</p> <p>Today's date is June 11, 2019. The time</p> <p>on the video monitor is 10:43 a.m. The</p> <p>videographer today is Jeremy Dineen, representing</p> <p>Planet Depos. This video deposition is taking</p> <p>place at the offices of Planet Depos, 1100</p> <p>Connecticut Avenue, Northwest, Suite 950, in</p> <p>Washington, DC.</p> <p>Would counsel please voice-identify</p> <p>themselves and state whom they represent.</p> <p>MS. BURKE: Lauren Burke, representing</p> <p>the plaintiff Judicial Watch.</p> <p>MS. COTCA: Ramona Cotca, for the</p> <p>plaintiff.</p> <p>MR. GARDNER: Josh Gardner, with the</p> <p>United States Department of Justice, on behalf of</p>
<p style="text-align: right;">6</p> <p style="text-align: center;">E X H I B I T S C O N T I N U E D</p> <p>SMILANSKY DEPOSITION EXHIBIT PAGE</p> <p>Exhibit 7 E-mail String Ending with E-mail 121</p> <p>Dated 11/12/12 from Ms. Balenger</p> <p>to Ms. Mills, et al.</p> <p>Exhibit 8 Federal Bureau of Investigation 131</p> <p>Form 302</p> <p style="text-align: right;">6</p>	<p style="text-align: right;">8</p> <p>defendant.</p> <p>MS. SHAPIRO: Elizabeth Shapiro, from the</p> <p>Department of Justice, on behalf of the defendant</p> <p>State Department.</p> <p>MR. PEZZI: Stephen Pezzi, from the</p> <p>Justice Department, on behalf of defendant.</p> <p>MS. GROSSO: Elizabeth Grosso, from the</p> <p>State Department.</p> <p>MR. JOHNSON: Cliff Johnson, from the</p> <p>State Department.</p> <p>MR. LIEBERMAN: Michael Lieberman, from</p> <p>the State Department.</p> <p>VIDEO SPECIALIST: Thank you.</p> <p>The court reporter today is Debbie</p> <p>Whitehead, representing Planet Depos.</p> <p>Would the reporter please swear in the</p> <p>witness.</p> <p>GENE SMILANSKY,</p> <p>having been duly sworn, testified as follows:</p> <p>EXAMINATION BY COUNSEL FOR PLAINTIFF</p> <p>BY MS. BURKE:</p> <p>Q Good morning.</p>

<p>33</p> <p>1 MS. BURKE: Well, I'm asking about the</p> <p>2 subject matter of the concern, not the</p> <p>3 communication of any privileged information or ...</p> <p>4 MR. GARDNER: At a high level, like a</p> <p>5 privilege log, you could describe the general</p> <p>6 subject matter of the conversation, without</p> <p>7 disclosing the contents. To the extent you can.</p> <p>8 A I can tell you that the question related</p> <p>9 to the department's legal obligations under the</p> <p>10 Freedom of Information Act as they relate to that</p> <p>11 particular request.</p> <p>12 Q Can you be -- in order -- can you</p> <p>13 characterize what it related to a little bit more</p> <p>14 specifically, without -- I'm not seeking</p> <p>15 privileged information.</p> <p>16 MR. GARDNER: Yeah, I -- I don't think he</p> <p>17 can.</p> <p>18 I mean, we can talk about that on the</p> <p>19 break. But I think he has disclosed as much as he</p> <p>20 can without revealing the privileged information</p> <p>21 itself.</p> <p>22 But we can discuss that at a break.</p>	<p>35</p> <p>1 A I can't recall. It obviously would have</p> <p>2 been after the CREW request came to the</p> <p>3 department. So I would say at some point in 2013.</p> <p>4 Q Did you ever discuss the CREW request at</p> <p>5 any point after the State Department provided a</p> <p>6 response to the requester?</p> <p>7 MR. GARDNER: Objection. Lack of</p> <p>8 foundation.</p> <p>9 You can answer that with a yes or no.</p> <p>10 A Yes.</p> <p>11 Q This meeting with Sheryl -- with</p> <p>12 Ms. Walter and Jonathan Davis, was that prior to</p> <p>13 when State sent out its response?</p> <p>14 A As far as I can recall, yes.</p> <p>15 Q And then the meeting or conversation that</p> <p>16 you just identified postdates the State</p> <p>17 Department's response was sent to the requester,</p> <p>18 who was that with?</p> <p>19 A As far as I can recall, it was with the</p> <p>20 same set of people that I had mentioned earlier,</p> <p>21 that included Kate Duval and Andrew Keller and</p> <p>22 James Bair.</p>
<p>34</p> <p>1 Q And you mentioned that you do recall an</p> <p>2 in-person meeting with Sheryl Walter?</p> <p>3 A Yes.</p> <p>4 Q Who else was in that meeting?</p> <p>5 A I recall a meeting at which, in addition</p> <p>6 to myself and Ms. Walter, there was another</p> <p>7 attorney within the Office of the Legal Advisor.</p> <p>8 Q Who was that?</p> <p>9 A His name was Jonathan Davis.</p> <p>10 Q Anybody else?</p> <p>11 A Not that I can recall.</p> <p>12 Q And how many times did you meet with</p> <p>13 Ms. Walter regarding the CREW request</p> <p>14 specifically?</p> <p>15 A I can vaguely recall one meeting. I -- I</p> <p>16 can't recall whether there were others. There may</p> <p>17 have been, but I just don't remember at this</p> <p>18 point.</p> <p>19 Q And where was the meeting held?</p> <p>20 A The meeting that I recall was in</p> <p>21 Ms. Walter's office.</p> <p>22 Q When was that meeting?</p>	<p>36</p> <p>1 Q And when was that meeting?</p> <p>2 A I can't recall exactly, but I think it</p> <p>3 may have been the summer of 2014.</p> <p>4 MS. COTCA: I'm sorry. When was that?</p> <p>5 THE WITNESS: That I believe, to the best</p> <p>6 of my recollection, it was the summer of 2014.</p> <p>7 MS. COTCA: December?</p> <p>8 THE WITNESS: The summer.</p> <p>9 MR. GARDNER: The summer.</p> <p>10 THE WITNESS: Of 2014.</p> <p>11 MS. COTCA: Okay. Thank you.</p> <p>12 BY MS. BURKE:</p> <p>13 Q And your prior meeting with those same</p> <p>14 individuals you identified as being sometime in</p> <p>15 2013?</p> <p>16 A I'm sorry. What?</p> <p>17 MR. GARDNER: Objection. Form.</p> <p>18 Q I think earlier you had testified that</p> <p>19 there was -- that you did have a meeting regarding</p> <p>20 Hillary Clinton's use of a nonstate.gov e-mail</p> <p>21 account with those identified individuals that you</p> <p>22 just referenced.</p>

<p>37</p> <p>1 Am I -- I'm just -- I want to clarify. 2 That meeting was in 2013? 3 A I believe I said 2014. 4 Q Oh, okay. So, what, these are two 5 different meetings? 6 MR. GARDNER: Objection. Form. 7 A I -- I believe that the meeting that I 8 referred to earlier I was thinking in my mind of 9 the same meeting that I'm just -- that -- at which 10 the CREW request was discussed. 11 Q And so the meeting in the summer of 12 2014 -- strike that. 13 Why would you need to have a meeting 14 regarding a FOIA request that had already been 15 responded to? 16 MR. GARDNER: Objection. 17 To the extent it requires the disclosure 18 of information subject to privilege, I instruct 19 you not to answer. To the extent you can answer 20 that question without divulging privileged 21 information, you can do so. 22 To the extent you need to consult to</p>	<p>39</p> <p>1 correct me if I misunderstood. I believe your 2 earlier testimony was that there had been a 3 meeting regarding Hillary Clinton's nonstate.gov 4 e-mails. 5 And then you also identified a meeting 6 related to the CREW request that took place after 7 the State Department's response had been sent to 8 the requester. 9 MR. GARDNER: Objection. Form. 10 A That's not exactly my recollection of the 11 question. 12 I recall you asked whether Hillary -- in 13 the first instance whether Hillary Clinton's use 14 of e-mail had been discussed. And then in the 15 second instance whether the CREW request had been 16 discussed after the department's response had gone 17 out to the requester. 18 And I answered yes in both cases, 19 referring to the meeting in 2014. 20 Q So the answer yes to both instances is 21 the same meeting in the summer of 2014. 22 Is that correct?</p>
<p>38</p> <p>1 determine that, we can obviously do that. 2 A I think it may be helpful to consult. 3 But I would just note that the -- I don't agree 4 with the premise of the question that the meeting 5 was about that request. 6 Q Okay. I'm going to back up a little bit. 7 Backtrack, just so that we have the record clear. 8 Because I don't know that I have it fully clear. 9 And I understand that you're answering the 10 questions and -- and pulling facts together. 11 Specifically relating to the CREW 12 request, was there a meeting -- strike that. 13 Was there ever a meeting related to the 14 CREW request after the State Department had sent 15 its response to the requester? 16 A Could you please clarify what you mean, a 17 meeting about the CREW request. 18 Do you mean a meeting, the purpose of 19 which was to discuss the CREW request? 20 Q I -- I mean a meeting related to the CREW 21 request. 22 So I think earlier -- and clarify, please</p>	<p>40</p> <p>1 A Yes. That's the meeting that I -- the 2 meeting that came to my mind when you asked me 3 those questions in both instances was the same 4 meeting. 5 Q And why did the use of Hillary's 6 nonstate.gov e-mail account come up? 7 MR. GARDNER: Objection. Calls for 8 information subject to privilege. 9 I instruct the witness not to answer. 10 Q Do you recall what the -- the CREW 11 request was about? 12 A In general terms, yes. 13 Q Can you describe to me in the general 14 terms that you recall? 15 A I'm not going to be able to cite it 16 exactly. But I think it was something along the 17 lines of documents sufficient to show the number 18 of e-mail accounts associated with then Secretary 19 Clinton. 20 Q And do you recall what the State 21 Department's response to the CREW request was? 22 A I believe -- I don't remember the</p>

<p style="text-align: right;">41</p> <p>1 response letter's language exactly.</p> <p>2 But I believe that it was a no records</p> <p>3 were found response.</p> <p>4 Q After that no records response was</p> <p>5 sent -- strike that.</p> <p>6 Following the no -- no records response</p> <p>7 sent to the CREW requester, were there issues</p> <p>8 raised regarding Hillary Clinton's nonstate.gov</p> <p>9 e-mail address?</p> <p>10 MR. GARDNER: You can answer that with a</p> <p>11 yes or no.</p> <p>12 A Yes.</p> <p>13 Q What issues were raised?</p> <p>14 MR. GARDNER: To the extent that answer</p> <p>15 calls for the disclosure of privileged</p> <p>16 information, I instruct you not to answer.</p> <p>17 To the extent that you can answer that</p> <p>18 question at a high level of generality without</p> <p>19 disclosing privileged information, you may do so.</p> <p>20 If we need to take a break to consult, we</p> <p>21 can obviously do that.</p> <p>22 THE WITNESS: It may be helpful to take a</p>	<p style="text-align: right;">43</p> <p>1 department's legal obligations under FOIA and</p> <p>2 records management obligations, and possibly among</p> <p>3 others.</p> <p>4 Q As they related to the CREW request?</p> <p>5 MR. GARDNER: Objection. Form.</p> <p>6 A Could you please clarify the question?</p> <p>7 Q Sure. The -- you mentioned that the</p> <p>8 kinds of issues were FOIA processing, legal</p> <p>9 obligations. And I'm asking is that related</p> <p>10 specifically to the CREW request, or related to</p> <p>11 the CREW request?</p> <p>12 MR. GARDNER: Objection. To the extent</p> <p>13 that calls for the disclosure of privileged</p> <p>14 information, I instruct the witness not to answer.</p> <p>15 To the extent you can answer that</p> <p>16 question in a way that doesn't disclose privileged</p> <p>17 information, you may do so.</p> <p>18 A Yes. The department's -- I recall the</p> <p>19 department's legal obligations relating to FOIA</p> <p>20 being discussed specifically with regard to the</p> <p>21 CREW request.</p> <p>22 Q Did these legal obligations involve</p>
<p style="text-align: right;">42</p> <p>1 break to consult.</p> <p>2 A But I can say at a high level of</p> <p>3 generality, about the issues related to the</p> <p>4 department's legal obligations with regard to FOIA</p> <p>5 processing and records management, and possibly</p> <p>6 other issues that I'm not recalling.</p> <p>7 Q Were there issues raised specifically</p> <p>8 regarding Hillary Clinton's e-mails?</p> <p>9 MR. GARDNER: You can answer that request</p> <p>10 a yes or no.</p> <p>11 A Yes, I believe the initial question was</p> <p>12 whether -- yes. I'll just leave it there.</p> <p>13 Q Who raised those issued?</p> <p>14 A I don't purport to have a knowledge of</p> <p>15 every -- every issue raised in -- in that sort of</p> <p>16 category that you described at the department.</p> <p>17 But I do recall the meeting that I</p> <p>18 mentioned earlier at which these kinds of issues</p> <p>19 were discussed. I mean, the -- the 2014 meeting.</p> <p>20 Q What do you mean by "kinds of issues"?</p> <p>21 A I mean the issues that I just</p> <p>22 characterized as issues relating to the</p>	<p style="text-align: right;">44</p> <p>1 Hillary Clinton nonstate.gov e-mail address?</p> <p>2 MR. GARDNER: You can answer that with a</p> <p>3 yes or no.</p> <p>4 A Yes.</p> <p>5 Q Did it involve other FOIA requests?</p> <p>6 MR. GARDNER: Objection. Form.</p> <p>7 A I can't recall other specific requests</p> <p>8 discussed in that meeting.</p> <p>9 Q Did it involve this request?</p> <p>10 MR. GARDNER: Objection. Vague.</p> <p>11 Q The request at issue here, the Judicial</p> <p>12 Watch FOIA request at issue.</p> <p>13 A Are you asking if I can recall this</p> <p>14 request being discussed at that meeting?</p> <p>15 Q Yes.</p> <p>16 A I cannot recall that.</p> <p>17 Q Do you recall the issues that were raised</p> <p>18 at your meeting having -- relating to this FOIA</p> <p>19 request at issue?</p> <p>20 MR. GARDNER: Objection. Form.</p> <p>21 A I -- as I just mentioned, I don't recall</p> <p>22 this FOIA request being discussed at that meeting.</p>

<p>117</p> <p>1 MR. GARDNER: Sure. I don't think she</p> <p>2 properly characterized your previous testimony.</p> <p>3 So the objection was form for mischaracterizing.</p> <p>4 A So I -- I believe that I -- I said that I</p> <p>5 think after August 2014 I was aware of this larger</p> <p>6 volume of -- of e-mails of Hillary Clinton that</p> <p>7 had not been in the department's possession.</p> <p>8 And you had asked me who had made me</p> <p>9 aware of that. And that was Kate Duval, I</p> <p>10 believe, to the best of my recollection now.</p> <p>11 Q And why did she make you aware?</p> <p>12 MR. GARDNER: Objection. Calls for</p> <p>13 information subject to privilege.</p> <p>14 I instruct the witness not to answer.</p> <p>15 Q And who else in your office was aware?</p> <p>16 MR. GARDNER: Objection. Lack of</p> <p>17 foundation. Form.</p> <p>18 A I -- I mean, I can speak to what I knew</p> <p>19 at the time. I don't know that I can comment on</p> <p>20 other people's state of knowledge.</p> <p>21 Q How did you become aware -- strike that.</p> <p>22 How did Ms. Duval inform you of this</p>	<p>119</p> <p>1 MS. BURKE: Whether there was a</p> <p>2 discussion?</p> <p>3 MR. GARDNER: Correct.</p> <p>4 MS. COTCA: Just for the record, she just</p> <p>5 asked a yes-or-no question.</p> <p>6 MR. GARDNER: Oh, I understand exactly</p> <p>7 what she asked.</p> <p>8 MS. COTCA: And what's the privilege</p> <p>9 you're claiming, attorney-client or work product?</p> <p>10 MR. GARDNER: Yes. Both attorney-client</p> <p>11 and work product.</p> <p>12 MS. COTCA: Both?</p> <p>13 MR. GARDNER: Correct.</p> <p>14 BY MS. BURKE:</p> <p>15 Q And at that time were you aware that the</p> <p>16 State Department was going to be requesting</p> <p>17 records be returned by Secretary Clinton?</p> <p>18 MR. GARDNER: Objection. Lack of</p> <p>19 foundation.</p> <p>20 A Could you clarify what you mean by "at</p> <p>21 that time."</p> <p>22 Q In August of 2014 when you were made</p>
<p>118</p> <p>1 larger volume of e-mails?</p> <p>2 MR. GARDNER: Objection. Form.</p> <p>3 Just to be clear, are you asking the mode</p> <p>4 of communication?</p> <p>5 MS. BURKE: Yes.</p> <p>6 MR. GARDNER: Okay.</p> <p>7 A Verbally.</p> <p>8 Q Was it in a meeting?</p> <p>9 A It -- it was in person, yes.</p> <p>10 Q And who else was there?</p> <p>11 A To the best of my recollection, it would</p> <p>12 have been Andrew Keller, and James Bair I believe</p> <p>13 was there. But my recollection is a little bit</p> <p>14 hazy on that front. And that's -- those are the</p> <p>15 only people who are coming to mind.</p> <p>16 Q And when you became aware of this larger</p> <p>17 volume of Hillary Clinton e-mails, was there any</p> <p>18 discussion regarding the need to search those</p> <p>19 e-mails to respond to pending FOIA requests?</p> <p>20 MR. GARDNER: Objection. Calls for</p> <p>21 privileged information.</p> <p>22 I instruct the witness not to answer.</p>	<p>120</p> <p>1 aware of the large volume of records.</p> <p>2 A I don't -- I -- I recall at some point</p> <p>3 becoming aware that there were going to be steps</p> <p>4 taken to get that information. But I don't recall</p> <p>5 when I became aware of -- that there would be such</p> <p>6 steps.</p> <p>7 I don't recall if it was in August of</p> <p>8 2014 or later.</p> <p>9 Q Were you aware -- strike that.</p> <p>10 Were you involved in the return of those</p> <p>11 records by Hillary Clinton in December 2014?</p> <p>12 MR. GARDNER: Objection. Form.</p> <p>13 A Could you clarify what you mean by</p> <p>14 "involved in the return"?</p> <p>15 Q Did you have any role in the return or</p> <p>16 collection or -- of Hillary records that were</p> <p>17 returned in December 2014?</p> <p>18 MR. GARDNER: You can answer that with a</p> <p>19 yes or no.</p> <p>20 A No.</p> <p>21 Q Do you know what Jim Bair's role was in</p> <p>22 the return of Hillary records in December 2014?</p>

<p style="text-align: right;">121</p> <p>1 MR. GARDNER: I think Jamie Bair?</p> <p>2 MS. BURKE: Jamie Bair. Sorry.</p> <p>3 MR. GARDNER: That's okay.</p> <p>4 Objection -- sorry. Objection, lack of</p> <p>5 foundation.</p> <p>6 A Beyond having a -- a vague recollection</p> <p>7 that he was present when I learned about this set</p> <p>8 of e-mails from Ms. Duval, I don't recall any</p> <p>9 other particular role that Mr. Bair had, sitting</p> <p>10 here now.</p> <p>11 Q Let me just go through these two, then I</p> <p>12 have just a couple last questions, last few</p> <p>13 questions.</p> <p>14 MS. BURKE: I think we are on Exhibit 7.</p> <p>15 (Smilansky Deposition Exhibit 7 marked</p> <p>16 for identification, retained by counsel.)</p> <p>17 Q And you've been handed what's been marked</p> <p>18 as Exhibit 7.</p> <p>19 A Uh-huh.</p> <p>20 Q Take a quick look through it.</p> <p>21 What is the HSGA --</p> <p>22 MR. GARDNER: Wait. Yeah, I think he was</p>	<p style="text-align: right;">123</p> <p>1 A Also an attorney.</p> <p>2 Q Josh Dorosin?</p> <p>3 A I think I mentioned earlier Josh was at</p> <p>4 some point my boss and assistant legal advisor,</p> <p>5 and then moved over into a different office within</p> <p>6 the Office of the Legal Advisor. But I can't</p> <p>7 recall exactly when.</p> <p>8 Q Amy Johnston?</p> <p>9 A I believe Amy Johnston was in also the</p> <p>10 Bureau of Legislative Affairs at the State</p> <p>11 Department.</p> <p>12 Q De'Ara Balenger?</p> <p>13 A De'Ara, I'm not sure what bureau she was</p> <p>14 in. But I believe that she was on some kind of</p> <p>15 detail relating to the document review effort,</p> <p>16 so ...</p> <p>17 Q Robert Fallon?</p> <p>18 A I believe he was in the Bureau of</p> <p>19 Legislative Affairs at the State Department.</p> <p>20 Q And Andrew O'Connell?</p> <p>21 A I believe Andrew was also on detail for</p> <p>22 the document review effort, but I'm not sure what</p>
<p style="text-align: right;">122</p> <p>1 reviewing the document.</p> <p>2 MS. BURKE: I apologize. I did not look</p> <p>3 up.</p> <p>4 MR. GARDNER: That's okay. That's okay.</p> <p>5 A It's kind of long, so I just want to make</p> <p>6 sure I'm ...</p> <p>7 Q Sure.</p> <p>8 A Okay. Thanks for giving me time.</p> <p>9 Q What is the HSGAC?</p> <p>10 A I believe that would have been the</p> <p>11 Senate -- sorry, the -- the Homeland Security and</p> <p>12 Government Affairs Committee of the Senate.</p> <p>13 Q Okay. And who is Josh Blumenfeld?</p> <p>14 A Sorry, which part of the e-mail are you</p> <p>15 looking at? Oh, I see. It's at the bottom.</p> <p>16 I believe Josh Blumenfeld was in the</p> <p>17 Bureau of Congressional Affairs, or sorry,</p> <p>18 Legislative Affairs at the Department of State.</p> <p>19 Q How about Jeremy Freeman?</p> <p>20 A Jeremy Freeman was also an attorney</p> <p>21 advisor in the Office of the Legal Advisor.</p> <p>22 Q And Theresa Bridgeman?</p>	<p style="text-align: right;">124</p> <p>1 his home bureau was.</p> <p>2 Q A Nima Abbaszadeh?</p> <p>3 A Nima also I believe was on detail for the</p> <p>4 document review effort.</p> <p>5 Q And what is -- what is this document that</p> <p>6 is in front of you?</p> <p>7 MR. GARDNER: Objection. Form.</p> <p>8 A I mean, looking at the face of the</p> <p>9 document, it appears to be an e-mail discussion</p> <p>10 involving the individuals you mentioned and some</p> <p>11 others. Someone from the Department of Defense.</p> <p>12 Q It looks to be -- the subject matter is</p> <p>13 regarding, you said the Homeland Security</p> <p>14 Government Affairs Committee Benghazi request.</p> <p>15 Were you involved in this congressional</p> <p>16 request?</p> <p>17 A Could you please clarify what you mean by</p> <p>18 "involved"?</p> <p>19 Q Did you -- did you work on this e-mail --</p> <p>20 or this congressional request?</p> <p>21 A I can't recall, looking at this document</p> <p>22 at this point, what specific document request was</p>

Conducted on June 11, 2019


<p>1 question would call for the disclosure of 2 information subject to privilege. 3 To the extent that you can answer that 4 question without disclosing privileged 5 information, you may do so. Otherwise I instruct 6 you not to answer. 7 A I don't recall having any particular 8 thoughts about that image. 9 Q Did anyone raise this issue with you? 10 MR. GARDNER: Objection. Form. 11 And just to be clear, Lauren, the issue 12 being the photo of Hillary Clinton using a 13 BlackBerry? I just -- if you could rephrase the 14 question, let's do it that way. 15 Q Did anyone ever raise Hillary Clinton's 16 use of a BlackBerry as an issue with you? 17 MR. GARDNER: You can answer that 18 question with a yes or no. 19 A No, not that I can recall. 20 MS. BURKE: I think that's all I have. 21 MR. GARDNER: We have no questions 22 either. I believe we already reserved the right</p>	<p>145</p> <p>1 ACKNOWLEDGMENT OF DEPONENT 2 I, GENE SMILANSKY, do hereby acknowledge 3 that I have read and examined the foregoing 4 testimony, and the same is a true, correct and 5 complete transcription of the testimony given by 6 me, and any corrections appear on the attached 7 Errata sheet signed by me. 8 9 _____ 10 (DATE) (SIGNATURE) 11 12 13 14 15 16 17 18 19 20 21 22</p> <p>147</p>
<p>1 to read and sign. 2 VIDEO SPECIALIST: If there are no 3 further questions, then this ends the deposition 4 and we are going off the record at 16:08. 5 COURT REPORTER: Mr. Pezzi, same order? 6 MR. PEZZI: Yes, please. 7 (Off the record at 4:08 p.m.) 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22</p> <p>146</p>	<p>1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC 2 I, Debra Ann Whitehead, the officer before whom 3 the foregoing deposition was taken, do hereby 4 certify that the foregoing transcript is a true and 5 correct record of the testimony given; that said 6 testimony was taken by me stenographically and 7 thereafter reduced to typewriting under my 8 direction; that reading and signing was requested; 9 and that I am neither counsel for, related to, nor 10 employed by any of the parties to this case and have 11 no interest, financial or otherwise, in its outcome. 12 IN WITNESS WHEREOF, I have hereunto set my hand and 13 affixed my notarial seal this 11th day of June, 14 2019. 15 16 My commission expires: 17 September 14, 2023 18 19  20 NOTARY PUBLIC IN AND FOR THE 21 DISTRICT OF COLUMBIA 22</p> <p>148</p>

Exhibit 11 – Walter Tr. Excerpts



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Transcript of Sheryl Walter

Date: June 14, 2019

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

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Transcript of Sheryl Walter
Conducted on June 14, 2019

1 (1 to 4)

1	3
1 IN THE UNITED STATES DISTRICT COURT	1 A P P E A R A N C E S
2 FOR THE DISTRICT OF COLUMBIA	2 ON BEHALF OF PLAINTIFF:
3 - - - - - x	3 RAMONA COTCA, ESQUIRE
4 JUDICIAL WATCH, INC., :	4 LAUREN M. BURKE, ESQUIRE
5 Plaintiff, :	5 JUDICIAL WATCH, INC.
6 v. : Civil Action No.	6 425 Third Street, SW
7 U.S. DEPARTMENT OF STATE, : 14-01242 (RCL)	7 Suite 800
8 Defendant. :	8 Washington, DC 20024
9 - - - - - X	9 (202) 646-5172
10	10
11 Videotaped Deposition of SHERYL WALTER	11 ON BEHALF OF DEFENDANT AND THE WITNESS:
12 Washington, DC	12 STEPHEN M. PEZZI, ESQUIRE
13 Friday, June 14, 2019	13 U.S. DEPARTMENT OF JUSTICE
14 2:04 p.m.	14 FEDERAL PROGRAMS BRANCH
15	15 1100 L Street, NW
16	16 Washington, DC 20005
17	17 (202) 305-7583
18	18
19	19
20 Job No.: 245268	20
21 Pages 1 - 102	21
22 Reported by: Debra A. Whitehead	22
2	4
1 Videotaped Deposition of SHERYL WALTER, held at	1 A P P E A R A N C E S C O N T I N U E D
2 the offices of:	2 ON BEHALF OF DEFENDANT AND THE WITNESS:
3	3 ELIZABETH SHAPIRO, ESQUIRE
4 PLANET DEPOS - DC	4 U.S. DEPARTMENT OF JUSTICE
5 1100 Connecticut Avenue, NW	5 CIVIL DIVISION
6 Suite 950	6 20 Massachusetts Avenue, NW
7 Washington, DC 20036	7 Washington, DC 20530
8 (888) 433-3767	8 (202) 514-2205
9	9
10	10 ON BEHALF OF DEFENDANT:
11 Pursuant to notice, before Debra A. Whitehead,	11 MICHAEL LIEBERMAN, ESQUIRE
12 an Approved Reporter of the United States District	12 UNITED STATES DEPARTMENT OF STATE
13 Court and Notary Public of the District of Columbia.	13 2201 C Street, NW
14	14 Washington, DC 20520
15	15 (202) 647-6371
16	16
17	17
18	18 ALSO PRESENT:
19	19 JEREMY DINEEN, Video Specialist
20	20
21	21
22	22

Transcript of Sheryl Walter
Conducted on June 14, 2019

2 (5 to 8)

5	7
<p>1 C O N T E N T S</p> <p>2 EXAMINATION OF SHERYL WALTER PAGE</p> <p>3 By Ms. Cotca 9</p> <p>4</p> <p>5 EXHIBITS MARKED IN TODAY'S SESSION</p> <p>6 (Retained by Counsel)</p> <p>7 WALTER DEPOSITION EXHIBIT PAGE</p> <p>8 Exhibit 1 Office of Information Programs 12</p> <p>9 and Services, A/GIS/IPS org</p> <p>10 Chart</p> <p>11 Exhibit 2 E-mail String Ending with E-mail 17</p> <p>12 Dated 4/19/13 from Mr. Davis to</p> <p>13 Mr. Johnson</p> <p>14 Exhibit 3 E-mail String Ending with E-mail 26</p> <p>15 Dated 12/27/12 from Ms. Walter</p> <p>16 to Ms. Samuelson</p> <p>17 Exhibit 4 E-mail String, Bates Nos. 34</p> <p>18 DOS_00000898_0001 to</p> <p>19 DOS_00000898_0002</p> <p>20 Exhibit 5 E-mail String, Bates Nos. 39</p> <p>21 DOS_00000901_0001 to</p> <p>22 DOS_00000901_0005</p>	<p>1 EXHIBITS MARKED IN PRIOR SESSIONS</p> <p>2 (Retained by Counsel)</p> <p>3 FINNEY DEPOSITION EXHIBIT PAGE</p> <p>4 Exhibit 1 6/10/13 Article from The 58</p> <p>5 Guardian, Hillary Clinton Joins</p> <p>6 Twitter</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
6	8
<p>1 EXHIBITS MARKED IN TODAY'S SESSION - CONTINUED</p> <p>2 WALTER DEPOSITION EXHIBIT PAGE</p> <p>3 Exhibit 6 E-mail String, Bates Nos. 65</p> <p>4 DOS_00000902_0001 to</p> <p>5 DOS_00000902_0005</p> <p>6 Exhibit 7 E-mail String, Bates Nos. 76</p> <p>7 DOS_00003631 to DOS_00003632</p> <p>8 Exhibit 8 E-mail String, Bates Nos. 79</p> <p>9 DOS_00001326_0001 to</p> <p>10 DOS_00001326_0003</p> <p>11 Exhibit 9 Departing Officials: Procedures 83</p> <p>12 For the Removal of Personal</p> <p>13 Papers and Non-Record Matter,</p> <p>14 January 25, 2013</p> <p>15 Exhibit 10 Government Records, Briefing 85</p> <p>16 Booklet for Federal Officials,</p> <p>17 Bureau of Administration, Office</p> <p>18 of Information Programs and</p> <p>19 Services, March 2012</p> <p>20</p> <p>21</p> <p>22</p>	<p>1 P R O C E E D I N G S</p> <p>2 VIDEO SPECIALIST: Here begins Disk</p> <p>3 Number 1 in the videotaped deposition of Sheryl</p> <p>4 Walter in the matter of Judicial Watch, Inc., V</p> <p>5 the U.S. Department of State, in the U.S. District</p> <p>6 Court for the District of Columbia; Case Number</p> <p>7 14-01242.</p> <p>8 Today's date is June 14, 2019. The time</p> <p>9 on the video monitor is 2:04 p.m. The</p> <p>10 videographer today is Jeremy Dineen, representing</p> <p>11 Planet Depos. This video deposition is taking</p> <p>12 place at the offices of Planet Depos, at 1100</p> <p>13 Connecticut Avenue, Northwest, Suite 950, in</p> <p>14 Washington, DC.</p> <p>15 Would counsel please voice-identify</p> <p>16 themselves and state whom they represent.</p> <p>17 MS. COTCA: Ramona Cotca, for the</p> <p>18 plaintiff.</p> <p>19 MS. BURKE: Lauren Burke, for the</p> <p>20 plaintiff.</p> <p>21 MR. PEZZI: Stephen Pezzi from the</p> <p>22 Department of Justice, on behalf of the defendant,</p>

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Conducted on June 14, 2019

6 (21 to 24)

<p>21</p> <p>1 your testimony.</p> <p>2 Is it that you did not call the White</p> <p>3 House, or is it that you don't recall calling the</p> <p>4 White House?</p> <p>5 A I don't recall calling the White House.</p> <p>6 Q Okay. During your tenure at the State</p> <p>7 Department, did you communicate with the White</p> <p>8 House about any other FOIA request?</p> <p>9 A No, I did not.</p> <p>10 Q Are you aware of any other instances</p> <p>11 where the White House would have contacted the</p> <p>12 State Department about a FOIA request?</p> <p>13 MR. PEZZI: Objection. Form.</p> <p>14 Foundation.</p> <p>15 Q And during -- this is during your tenure</p> <p>16 at the State Department.</p> <p>17 A I am not aware of anyone else. I -- I</p> <p>18 would not know if anyone else was contacted or</p> <p>19 not.</p> <p>20 Q Well, I'm not asking if you were directly</p> <p>21 contacted. But if you are -- if you have any</p> <p>22 knowledge about the White House contacting either</p>	<p>23</p> <p>1 A I do not know.</p> <p>2 Q Would you have known her position and</p> <p>3 title at the time that you were at the State</p> <p>4 Department?</p> <p>5 MR. PEZZI: Objection. Form.</p> <p>6 A I might have, but I can't tell you that</p> <p>7 now.</p> <p>8 Q Okay. In the e-mail to Ms. Samuelson you</p> <p>9 wrote, "Hi Heather. Copy attached. It was in our</p> <p>10 significant weekly FOIA report that we sent to L</p> <p>11 and S/ES also."</p> <p>12 What is a significant weekly FOIA report?</p> <p>13 Or what was it at the time --</p> <p>14 A At the time?</p> <p>15 Q -- this e-mail was sent? Yes.</p> <p>16 A I would ask the -- the seniors who</p> <p>17 reported to me to collect any FOIA requests that</p> <p>18 might be of significance in a broader scale, just</p> <p>19 so we would be able to have a list of some of</p> <p>20 those to -- to watch them.</p> <p>21 Q Okay. And why was CREW's request placed</p> <p>22 on this Significant FOIA Report?</p>
<p>22</p> <p>1 your office within IPS --</p> <p>2 A I don't have any independent knowledge of</p> <p>3 that, no.</p> <p>4 Q Okay. Can I -- moving further up the</p> <p>5 chain, the e-mail chain, and again also an e-mail</p> <p>6 from you, from December 20th, 2012, at time stamp</p> <p>7 1:54 p.m., to Ms. Heather Samuelson.</p> <p>8 MR. PEZZI: Why don't you take a moment</p> <p>9 to review the e-mail chain.</p> <p>10 THE WITNESS: Uh-huh.</p> <p>11 A Okay.</p> <p>12 Q Okay. Who is Heather Samuelson?</p> <p>13 A I don't have an independent knowledge of</p> <p>14 who she is. But I know from having reviewed the</p> <p>15 filings in this case that she had a title of White</p> <p>16 House Liaison.</p> <p>17 Q Okay. Do you know which office her</p> <p>18 office was in?</p> <p>19 A I do not.</p> <p>20 Q Okay. Do you know that she worked under</p> <p>21 Patrick Kennedy and under Cheryl Mills at the time</p> <p>22 that she was at the State Department?</p>	<p>24</p> <p>1 A I do not know.</p> <p>2 Q Is it because it requested -- it was on</p> <p>3 the topic of personal use by Secretary -- of</p> <p>4 e-mail by Secretary Clinton?</p> <p>5 A I --</p> <p>6 MR. PEZZI: Objection. Form.</p> <p>7 Foundation.</p> <p>8 A I can't tell you what reason that it was</p> <p>9 on that list.</p> <p>10 Q Okay. I believe you just testified that</p> <p>11 you had senior people in your office who compiled</p> <p>12 the FOIA requests.</p> <p>13 Who were the -- who were those</p> <p>14 individuals?</p> <p>15 A They would be supervisors who worked</p> <p>16 in -- mostly in the programs and policies</p> <p>17 division.</p> <p>18 Q Is that on the chart here? Okay.</p> <p>19 A Yes.</p> <p>20 Q And who were the supervisors in that</p> <p>21 division at the time?</p> <p>22 A To the best of my recollection, Patrick</p>

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7 (25 to 28)

<p style="text-align: right;">25</p> <p>1 Scholl was the chief of that. I'm not -- I can't 2 recall who his deputies were. 3 Q Okay. Thank you. 4 For the record, what does L refer to and 5 S/ES in that e-mail? 6 A L would refer to the Office of Legal 7 Advisor. And S generally means the Office of the 8 Secretary. The ES, I'm sorry, I can't remember. 9 Q Okay. 10 A But I would -- just pure speculation, it 11 would be some subset of the Office of the 12 Secretary, but I don't know. 13 Q Okay. And later in the e-mail you say, 14 "As a practical matter given our workload, it 15 won't be processed for some months." 16 Why did you include that in your e-mail 17 to Ms. Samuelson, that the FOIA request wouldn't 18 be processed within some months? 19 MR. PEZZI: Objection. Form. 20 A It's -- it's a factual statement about 21 when it would -- when it would potentially be 22 processed.</p>	<p style="text-align: right;">27</p> <p>1 e-mail. The same e-mail, actually, that was in 2 the last exhibit, but it appears on this one as 3 well, from December 20th, 2012. 4 A Uh-huh. 5 Q When you're inquiring if the State 6 Department received the CREW FOIA request. 7 You stated there that apparently other 8 agencies have. 9 How did you know that other agencies had 10 received a similar request? 11 MR. PEZZI: Objection. Foundation. 12 A I don't know how I would have known that. 13 I'm not saying I didn't know that, because I said 14 it. But I don't know how. 15 MS. SHAPIRO: Ramona, can I ask you a 16 question? 17 MS. COTCA: Yes. 18 MS. SHAPIRO: Sorry to interrupt. These 19 two documents look like they're completely 20 separate documents. 21 Are they separate documents that you've 22 collated?</p>
<p style="text-align: right;">26</p> <p>1 Q Did Ms. Samuelson ask you with respect to 2 when the CREW request would be processed? 3 A I don't have any recollection of that. 4 Q Okay. 5 (Walter Deposition Exhibit 3 marked for 6 identification, retained by counsel.) 7 Q I want to show you what's been premarked 8 as Exhibit 3. 9 And, again, for the record it is an 10 e-mail chain between you and Ms. Samuelson from 11 December of 2012 about the CREW request. And the 12 last page is actually, it looks like it appears to 13 be an Outlook entry for a conference call 14 regarding the CREW FOIA request. 15 Is that accurate? 16 A This is -- 17 MR. PEZZI: Have you had a minute to 18 review the document in front of you? 19 THE WITNESS: I'm still looking through 20 it. 21 A Okay. 22 Q Okay. I want to point you to your</p>	<p style="text-align: right;">28</p> <p>1 MS. COTCA: Yes. 2 MS. SHAPIRO: Okay. 3 MS. COTCA: But they are all documents 4 that the State Department produced, both of the 5 documents the State Department produced in a 6 separate FOIA -- 7 MS. SHAPIRO: Correct. 8 MS. COTCA: -- case relating to the 9 processing of the CREW request. 10 MS. SHAPIRO: Correct. They had 11 different numbers, so -- 12 MS. COTCA: They are different numbers. 13 MS. SHAPIRO: -- I just wanted her to 14 understand that these did not exist together. 15 MS. COTCA: Correct. 16 BY MS. COTCA: 17 Q If I can point you to Ms. Samuelson's 18 e-mail on December 24, 2012, appearing on the 19 first page of the document, which is the fourth 20 e-mail down. Where she says, "Thank so much, 21 Cheryl. If you could add me to that list, that 22 would be great."</p>

Transcript of Sheryl Walter
Conducted on June 14, 2019

19 (73 to 76)

<p style="text-align: right;">73</p> <p>1 or whatever, wherever we had tasked them.</p> <p>2 Q Can I point you to the second page of</p> <p>3 this exhibit, Ms. Finnegan's e-mail to you and</p> <p>4 others, dated August 7, 2013.</p> <p>5 And she's addressing this to you. She</p> <p>6 says, "Sheryl: To follow up on my early response,</p> <p>7 Cristina is handling the Judicial Watch case" --</p> <p>8 and it's Case Number 2013-772, in front of --</p> <p>9 "pending in front of Judge Kollar-Kotelly" --</p> <p>10 which is still pending, actually -- "that seeks</p> <p>11 access to all communications, including e-mail,</p> <p>12 between the department and President Clinton</p> <p>13 and/or his foundation regarding clearing his</p> <p>14 speeches. We don't believe that this case</p> <p>15 necessarily includes Secretary Clinton's e-mails."</p> <p>16 Do you see that?</p> <p>17 A I do.</p> <p>18 Q Why did she -- why was -- why does she</p> <p>19 comment on whether the FOIA request necessarily</p> <p>20 included Secretary Clinton's e-mails in August of</p> <p>21 2013?</p> <p>22 MR. PEZZI: Objection. Form.</p>	<p style="text-align: right;">75</p> <p>1 record at 15:30.</p> <p>2 BY MS. COTCA:</p> <p>3 Q Ms. Walter, do you recall if in or around</p> <p>4 June of 2013 or the summer of 2013, whether there</p> <p>5 was a directive from your office or from IPS to</p> <p>6 the FOIA branch not to send any further no-records</p> <p>7 response to FOIAs that related to Secretary</p> <p>8 Clinton's e-mails?</p> <p>9 A I don't remember that, no.</p> <p>10 Q Do you know whether the State Department</p> <p>11 continued to send any no-records responses to FOIA</p> <p>12 requests relating to Secretary Clinton's e-mails</p> <p>13 after June 2013 up until the time that you left</p> <p>14 the State Department?</p> <p>15 A No, I don't know that.</p> <p>16 Q All right. With -- Ms. Walter, based on,</p> <p>17 you know, the speculations that you said were</p> <p>18 raised and all of the discussions that were</p> <p>19 reflected in -- that are reflected in all of these</p> <p>20 e-mails contained in the exhibits that you've been</p> <p>21 shown, did you at that point or at any point</p> <p>22 during this time frame ask whether Secretary</p>
<p style="text-align: right;">74</p> <p>1 Foundation. Beyond the scope.</p> <p>2 A I -- I can't tell you exactly why. I</p> <p>3 could speculate that in the context of this e-mail</p> <p>4 chain, that was one of the issues that was being</p> <p>5 discussed. So she volunteered that information.</p> <p>6 But I don't otherwise know why she would raise</p> <p>7 that.</p> <p>8 Q Well, wouldn't she -- okay. And she --</p> <p>9 she reported directly to you?</p> <p>10 A Yes, she did.</p> <p>11 Q Okay.</p> <p>12 All right. Moving forward to late 2013,</p> <p>13 early 2014.</p> <p>14 MS. COTCA: Do you need a break,</p> <p>15 Ms. Walter?</p> <p>16 THE WITNESS: I think I would like a</p> <p>17 break, actually.</p> <p>18 MS. COTCA: Why don't we take a break.</p> <p>19 VIDEO SPECIALIST: We are going off the</p> <p>20 record at 15:20.</p> <p>21 (A recess was taken.)</p> <p>22 VIDEO SPECIALIST: We are back on the</p>	<p style="text-align: right;">76</p> <p>1 Clinton used e-mail while she was at the State</p> <p>2 Department?</p> <p>3 MR. PEZZI: Objection. Form.</p> <p>4 A Asked who?</p> <p>5 Q Anybody.</p> <p>6 MR. PEZZI: Same objection.</p> <p>7 A I don't recall that.</p> <p>8 (Walter Deposition Exhibit 7 marked for</p> <p>9 identification, retained by counsel.)</p> <p>10 Q I'm showing you what's been premarked as</p> <p>11 Exhibit 7.</p> <p>12 A Okay.</p> <p>13 Q Okay. Thank you.</p> <p>14 MS. COTCA: For the record, this is</p> <p>15 Bates-stamped DOS Document 3631 produced by the</p> <p>16 State Department to plaintiff in discovery in this</p> <p>17 case.</p> <p>18 Q This is e-mails to you, between you and</p> <p>19 Ms. Tasha Thian, about departing senior -- senior</p> <p>20 department officials departing from the State</p> <p>21 Department in January of 2013.</p> <p>22 Do you see -- I want to point you to the</p>

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20 (77 to 80)

<p style="text-align: right;">77</p> <p>1 e-mail from Ms. Thian to you on January 11. And</p> <p>2 she wrote to you, "Ms. Mills wants to know the</p> <p>3 review procedures for personal papers."</p> <p>4 Do you see that?</p> <p>5 A Yes.</p> <p>6 Q What was the review process for personal</p> <p>7 papers?</p> <p>8 A Tasha Thian was the person who was in</p> <p>9 charge of that. I don't know the details.</p> <p>10 Q Okay. Then in the first e-mail of the</p> <p>11 exhibit, from you, dated January 11, 2013, it's at</p> <p>12 the top of Page 1, where --</p> <p>13 A So you're saying the first. Meaning --</p> <p>14 Q The last --</p> <p>15 A -- top.</p> <p>16 Q -- in the e-mail chain.</p> <p>17 A The last in the chain?</p> <p>18 Q Correct. Thank you. Yes.</p> <p>19 Where it says, "Tasha will let Clarence</p> <p>20 know she is unable to attend and also let her know</p> <p>21 that Cheryl and Jennifer already have been briefed</p> <p>22 by you and have guidance booklet."</p>	<p style="text-align: right;">79</p> <p>1 it would be guidance on records retention when</p> <p>2 a -- when leaving a department. But that would be</p> <p>3 from taking this from the context of this e-mail.</p> <p>4 Q Okay. I appreciate that. Thank you.</p> <p>5 (Walter Deposition Exhibit 8 marked for</p> <p>6 identification, retained by counsel.)</p> <p>7 Q If you would look at what's been</p> <p>8 premarked as Exhibit 8.</p> <p>9 And I just -- really I only have</p> <p>10 questions with respect to the e-mail from</p> <p>11 Ms. Grafeld to you and Ms. Tasha Thian, from</p> <p>12 December -- January 27, 2013. With the subject,</p> <p>13 Departing Officials. Which is actually the first</p> <p>14 e-mail in the e-mail chain. So all the way at the</p> <p>15 bottom.</p> <p>16 A You mean the reverse. Right?</p> <p>17 Q Yes. Thank you.</p> <p>18 And specifically to the paragraph where</p> <p>19 it says, "According to today's DN, the Secretary's</p> <p>20 departing on February 1. This also means that her</p> <p>21 senior noncareer staff, particularly Cheryl Mills,</p> <p>22 whose records we would want, will also be leaving:</p>
<p style="text-align: right;">78</p> <p>1 Is that -- are you referring to Cheryl as</p> <p>2 Cheryl Mills?</p> <p>3 A I -- in the context of this?</p> <p>4 Q Yes.</p> <p>5 A I would assume yes.</p> <p>6 Q And who is Jennifer who you're referring</p> <p>7 to in that e-mail?</p> <p>8 A I don't know. There is a Jennifer at the</p> <p>9 bottom of the e-mail, so it might be her. But I</p> <p>10 don't know for -- that for sure.</p> <p>11 Q Who is the Jennifer that's referenced in</p> <p>12 the bottom of the e-mail?</p> <p>13 A I don't know who she is.</p> <p>14 Q Okay. And the "you," are you referring</p> <p>15 to Ms. Grafeld?</p> <p>16 A Yes.</p> <p>17 Q Okay. And then you state that "had the</p> <p>18 guidance booklet."</p> <p>19 What's the guidance booklet you're</p> <p>20 referring to in there?</p> <p>21 A I would -- I don't know for sure, but I</p> <p>22 would assume in the context of this document that</p>	<p style="text-align: right;">80</p> <p>1 While I have spoken with Sheryl months ago about</p> <p>2 the Secretary's records, Clarence has the first</p> <p>3 line of responsibility for ensuring that they all,</p> <p>4 including the counselor in all her roles, adhere</p> <p>5 to the laws and regs. I trust you are working</p> <p>6 closely with him."</p> <p>7 Do you see that?</p> <p>8 A Yes, I do.</p> <p>9 Q Okay. Did you receive this e-mail back</p> <p>10 in January of 2013?</p> <p>11 A Well, in the context of the copy of this</p> <p>12 e-mail, I would assume so.</p> <p>13 Q Okay. A couple of questions here. The</p> <p>14 Clarence that's referenced in here, is that</p> <p>15 Clarence Finney?</p> <p>16 A I don't know for sure, but probably it</p> <p>17 is.</p> <p>18 Q Okay. And who is Mr. Finney at the time?</p> <p>19 Or what was his position at the time, if you</p> <p>20 recall?</p> <p>21 A I know that he -- I remember that there</p> <p>22 was a Clarence who worked in the Secretary's</p>

Transcript of Sheryl Walter
Conducted on June 14, 2019

21 (81 to 84)

<p style="text-align: right;">81</p> <p>1 office related to records.</p> <p>2 Q Okay.</p> <p>3 A I don't remember what his last name was.</p> <p>4 Q Sure. Okay. And in the comment about,</p> <p>5 "including the counselor in all her roles," is</p> <p>6 that reference to Cheryl Mills?</p> <p>7 MR. PEZZI: Objection. Form.</p> <p>8 A I can only tell you in the context of</p> <p>9 this sentence, that it would appear to be so.</p> <p>10 Q Okay. And what were all of Ms. Mills'</p> <p>11 roles at the State Department? What was the</p> <p>12 concern here about that?</p> <p>13 A I have --</p> <p>14 MR. PEZZI: Objection. Form.</p> <p>15 Foundation.</p> <p>16 A I have no idea.</p> <p>17 Q Do you know why Ms. Grafeld wrote to you</p> <p>18 and Ms. Tasha Thian that she trusts you are</p> <p>19 working closely with Clarence, and also ensure</p> <p>20 that your contacts in L and H have done their</p> <p>21 jobs, including our ability to capture e-mail in</p> <p>22 our special archive system?</p>	<p style="text-align: right;">83</p> <p>1 departing officials?</p> <p>2 A Yes.</p> <p>3 Q Okay. And what is the -- the reference</p> <p>4 to, "our special archive system"?</p> <p>5 What does that refer to?</p> <p>6 A Where is that?</p> <p>7 Q It's in the last sentence of the e-mail.</p> <p>8 Well, actually, just on this page, not of the</p> <p>9 entire e-mail. Of this same paragraph that we</p> <p>10 were looking at.</p> <p>11 A I don't know the answer to that.</p> <p>12 Q Was there an archive system of -- or a</p> <p>13 special archive system that State Department used?</p> <p>14 A I don't know what she's referring to.</p> <p>15 Q Okay. What is a D -- on the first page</p> <p>16 of the exhibit, draft D notice in Ms. Thian's</p> <p>17 e-mail on January 29? What's a draft D notice?</p> <p>18 A I can only speculate. It's probably</p> <p>19 departmental.</p> <p>20 (Walter Deposition Exhibit 9 marked for</p> <p>21 identification, retained by counsel.)</p> <p>22 Q Let me show you what's been marked as</p>
<p style="text-align: right;">82</p> <p>1 MR. PEZZI: Objection. Form.</p> <p>2 Foundation.</p> <p>3 A I -- I don't find anything remarkable in</p> <p>4 that.</p> <p>5 Q Okay. Was there any concern from -- that</p> <p>6 Ms. Grafeld had with respect to making sure that</p> <p>7 all of the Secretary's records were retained and</p> <p>8 captured by the State Department prior to her</p> <p>9 leaving?</p> <p>10 MR. PEZZI: Same objections.</p> <p>11 A I would say that we were all concerned</p> <p>12 about that.</p> <p>13 Q Okay. Did you work with Mr. Finney --</p> <p>14 closely with Mr. Finney, prior to Secretary's</p> <p>15 departure?</p> <p>16 A I did not work with Mr. Finney.</p> <p>17 Q Okay.</p> <p>18 A Tasha Thian would have done that.</p> <p>19 Q Okay. Did Tasha Thian report to you?</p> <p>20 A Yes, she did.</p> <p>21 Q Okay. And would she keep you abreast as</p> <p>22 to what she was doing with respect to the</p>	<p style="text-align: right;">84</p> <p>1 Exhibit 9.</p> <p>2 Is that a D notice?</p> <p>3 A I don't know. It's a notice, but I don't</p> <p>4 know if it was a D notice.</p> <p>5 Q Was there a specific type of notice that</p> <p>6 departing officials received at the State</p> <p>7 Department prior to their departure?</p> <p>8 MR. PEZZI: Objection. Form.</p> <p>9 Foundation.</p> <p>10 A A particular notice?</p> <p>11 Q Yeah. With respect to their</p> <p>12 responsibilities and obligations to make sure that</p> <p>13 all of their State Department records remain at</p> <p>14 the State Department.</p> <p>15 A I don't know that there was any --</p> <p>16 MR. PEZZI: Same objections.</p> <p>17 A -- particular notice.</p> <p>18 Q Was there anything that departing --</p> <p>19 departing State Department officials had to</p> <p>20 sign --</p> <p>21 MR. PEZZI: Same --</p> <p>22 Q -- certifying that they left with the</p>

Transcript of Sheryl Walter
Conducted on June 14, 2019

25 (97 to 100)

<p style="text-align: right;">97</p> <p>1 your question.</p> <p>2 Q What's the premise that you disagree</p> <p>3 with?</p> <p>4 A That you're trying to characterize what</p> <p>5 my responsibilities were or not. And I've</p> <p>6 described to you what my responsibilities were.</p> <p>7 Q Right. So I'm just asking, are -- is it</p> <p>8 your testimony that you were not responsible as</p> <p>9 the director of IPS to make aware the appropriate</p> <p>10 office responsible for managing records at the</p> <p>11 State Department when you were made aware of the</p> <p>12 speculations about Secretary Clinton's e-mail</p> <p>13 account?</p> <p>14 MR. PEZZI: Objection. Form.</p> <p>15 A I think I have -- I think I've answered</p> <p>16 that question already.</p> <p>17 Q Is it your testimony that during your</p> <p>18 tenure at the State Department, you do not recall</p> <p>19 ever dealing with the issue surrounding Secretary</p> <p>20 Clinton's e-mail, other than the speculations that</p> <p>21 you testified to earlier today?</p> <p>22 MR. PEZZI: Objection. Form.</p>	<p style="text-align: right;">99</p> <p>1 Clinton's e-mail outside of the speculations that</p> <p>2 you testified to today?</p> <p>3 A Not outside --</p> <p>4 MR. PEZZI: Objection to form.</p> <p>5 A -- of what we've talked about.</p> <p>6 MS. COTCA: Off the record.</p> <p>7 VIDEO SPECIALIST: We are going off the</p> <p>8 record at 16:12.</p> <p>9 (A recess was taken.)</p> <p>10 VIDEO SPECIALIST: We are back on the</p> <p>11 record at 16:14.</p> <p>12 BY MS. COTCA:</p> <p>13 Q Ms. Walter, when the news came out in</p> <p>14 March of 2015 that Secretary Clinton had used</p> <p>15 personal e-mail for State Department business, did</p> <p>16 that surprise you?</p> <p>17 MR. PEZZI: Objection. Form.</p> <p>18 A I -- I think I -- it wasn't something I</p> <p>19 had known before.</p> <p>20 MS. COTCA: That's it.</p> <p>21 MR. PEZZI: No questions -- no questions</p> <p>22 from the government.</p>
<p style="text-align: right;">98</p> <p>1 A Well, I don't really understand your</p> <p>2 question. Because we've been talking about the</p> <p>3 fact that we did deal with the e-mail, requests</p> <p>4 for e-mails.</p> <p>5 Q Okay. Correct. But I thought your</p> <p>6 testimony is that you don't recall that request</p> <p>7 for e-mails with respect --</p> <p>8 A I don't recall those specific requests --</p> <p>9 Q Okay.</p> <p>10 A -- but looking at the e-mails -- the</p> <p>11 e-mail exhibits you've shown me, we clearly did.</p> <p>12 Q Well, did that refresh your recollection</p> <p>13 as to the request?</p> <p>14 A Not as to the -- not as to the details of</p> <p>15 it; just the fact of.</p> <p>16 Q Okay. So outside, independent -- I'm</p> <p>17 trying to understand what your testimony is here</p> <p>18 today.</p> <p>19 Independent of the documents that you've</p> <p>20 been shown, is it your testimony that you have no</p> <p>21 recollection, sitting here today, about ever</p> <p>22 dealing with the issue surrounding Secretary</p>	<p style="text-align: right;">100</p> <p>1 VIDEO SPECIALIST: If there are no</p> <p>2 further questions then this ends the deposition,</p> <p>3 and we are going off the record at 16:15.</p> <p>4 COURT REPORTER: Mr. Pezzi, same order?</p> <p>5 MR. PEZZI: Yes, please.</p> <p>6 (Off the record at 4:15 p.m.)</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

Transcript of Sheryl Walter
Conducted on June 14, 2019

26 (101 to 104)


<p style="text-align: right; margin-right: 50px;">101</p> <p>1 ACKNOWLEDGMENT OF DEPONENT</p> <p>2 I, SHERYL WALTER, do hereby acknowledge</p> <p>3 that I have read and examined the foregoing</p> <p>4 testimony, and the same is a true, correct and</p> <p>5 complete transcription of the testimony given by</p> <p>6 me, and any corrections appear on the attached</p> <p>7 Errata sheet signed by me.</p> <p>8</p> <p>9 _____</p> <p>10 (DATE) (SIGNATURE)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	
<p style="text-align: right; margin-right: 50px;">102</p> <p>1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC</p> <p>2 I, Debra Ann Whitehead, the officer before whom</p> <p>3 the foregoing deposition was taken, do hereby</p> <p>4 certify that the foregoing transcript is a true and</p> <p>5 correct record of the testimony given; that said</p> <p>6 testimony was taken by me stenographically and</p> <p>7 thereafter reduced to typewriting under my</p> <p>8 direction; that reading and signing was requested;</p> <p>9 and that I am neither counsel for, related to, nor</p> <p>10 employed by any of the parties to this case and have</p> <p>11 no interest, financial or otherwise, in its outcome.</p> <p>12 IN WITNESS WHEREOF, I have hereunto set my hand and</p> <p>13 affixed my notarial seal this 16th day of June,</p> <p>14 2019.</p> <p>15</p> <p>16 My commission expires:</p> <p>17 September 14, 2023</p> <p>18 </p> <p>19 _____</p> <p>20 NOTARY PUBLIC IN AND FOR THE</p> <p>21 DISTRICT OF COLUMBIA</p> <p>22</p>	

Exhibit 12 – Walter Ex. 7

From: Walter, Sheryl L [WalterSL@state.gov]
Sent: 1/11/2013 5:26:48 PM
To: Walter, Sheryl L [WalterSL@state.gov]; Grafeld, Margaret P [GrafeldMP@state.gov]
CC: Stein, Eric F [SteinEF@state.gov]
Subject: RE: Heads up - briefing at S today

Taken care of. Tasha will let Clarence know she isn't able to attend and also let him know that Cheryl and Jennifer already have been briefed by you and have the guidance booklet.

From: Walter, Sheryl L
Sent: Friday, January 11, 2013 12:02 PM
To: Grafeld, Margaret P
Cc: Stein, Eric F
Subject: FW: Heads up - briefing at S today
Importance: High

FYI, in case you want to mention this to Joyce at your 1x1. Clarence Phinney asked Tasha to join them especially given Cheryl Mills's potential attendance.

From: Thian, Tasha M
Sent: Friday, January 11, 2013 11:51 AM
To: Walter, Sheryl L
Subject: Heads up - briefing at S today
Importance: High

Sheryl:

I received a request from Clarence to attend a briefing for S staffers on Departing Officials procedures. Now I understand that Cheryl Mills will be attending as well. The session is at 2:30 today. Ms. Mills wants to know the review procedures for personal papers. Other staffers will be there. Since Ms. Mills is attending the Executive Secretary is attending as well. I will explain the procedures. Wanted you to know.

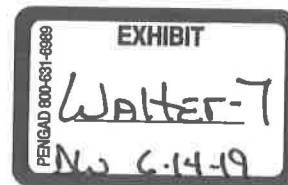
-----Original Appointment-----

From: Davis, Jennifer L (S)
Sent: Friday, January 11, 2013 8:44 AM
To: Finney, Clarence N; S; Gelber, Ethan M; Adler, Caroline E; Bass, John R
Cc: Coleman, Claire L; Johnson, Brock A; Smith, Jeannemarie E; Dewan, Linda L; Russo, Robert V; Thian, Tasha M
Subject: Reminer: Records Retirement w/ Clarence Finney
When: Friday, January 11, 2013 2:30 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada) - Updated for 2007.
Where: S Conference Room

Please join us for a meeting with S/ES-CR's Clarence Finney to discuss retiring official government records for Secretary's Clinton tenure at the State Department, including answering your pressing questions like "what's a record," "what can I take home and call my personal document," and "where do I get boxes"?

Tasha M. Thian, CRM
 Agency Records Officer
 A/GIS/IPS/RA
 (202) 261-8424
 Fax: (202) 261-8590
thiantm2@state.gov

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Exhibit 13 – Walter Ex. 8

From: Grafeld, Margaret P [/O=SBUSTATE/OU=AISPIPS AG/CN=RECIPIENTS/CN=GRAFELDMP]
Sent: 1/30/2013 1:55:28 PM
To: Dotson, Vicki L [DotsonVL@state.gov]
Subject: Fw: Departing Officials
Attachments: Departing Officials Dept Notice - August 2011.docx
Importance: High

Pls print this email and all the attachments. Thx

From: Thian, Tasha M
Sent: Tuesday, January 29, 2013 10:04 AM
To: Grafeld, Margaret P
Cc: Stein, Eric F; Walter, Sheryl L
Subject: RE: Departing Officials

Peggy:

Attached please see the draft D-Notice. We will need to adjust for the ALDAC unless we just go with the D-Notice only. I had it recalled from the clearance process – was my fault. The previous longer version one is at:
http://mmsweb.a.state.gov/asp/notices/dn_temp.asp?Notice_ID=10321

FYI - A Chief of Missions ALDAC did go out in DEC 2012 that I cleared
<http://repository.state.gov/archive/2012/12/04/023474c6-660a-4136-b41e-cd04d9652e98/12-STATE-119937.eml.PDF>
(had similar language as a previous one.)

DISPOSITION OF RECORDS/PERSONAL PAPERS (CAREER AND NONCAREER):

31. For information on the disposition of records and removal of personal papers, departing COMs should consult the "The Departing Official" section of the briefing book entitled, "Government Records, Briefing Booklet for Federal Officials" dated March 2012. If a copy is not available at your post, it is available on the Records Management website on OpenNet in the General Records Information section. The direct link is:
<http://a.m.state.sbu/sites/gis/ips/RA/Documents/BriefingBooklet.pdf> You may also contact the Department's Records Officer, Tasha Thian, A/GIS/IPS/RA, via unclassified/classified e-mail.
"IN-

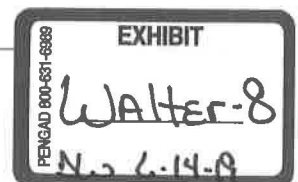
Tasha M. Thian, CRM
Agency Records Officer
A/GIS/IPS/RA
(202) 261-8424
Fax: (202) 261-8590
thiantm2@state.gov

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Our mission is to meet the information needs of our customers and the United States Government.

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From: Grafeld, Margaret P
Sent: Tuesday, January 29, 2013 8:23 AM



DOS_00001326_0001

To: Thian, Tasha M; Walter, Sheryl L
Cc: Stein, Eric F
Subject: Re: Departing Officials
Importance: High

Tasha,

Would appreciate reviewing the DN and ALDAC (should have had internal review and vetting prior to release to others).

On another note...We met with the prosecutors yesterday. Understand the others stood you up...remember, answer only the question asked, don't offer additional information. These are military guys who will be relatively respectful of you and your position (you out-rank them).

Best,
Peggy

From: Thian, Tasha M
Sent: Tuesday, January 29, 2013 07:53 AM
To: Grafeld, Margaret P; Walter, Sheryl L
Cc: Dorosin, Joshua L; Stein, Eric F
Subject: RE: Departing Officials

Peggy and Sheryl:

I have been working with Clarence on the S departing officials. Also L contacted me on Harold Koh who is staying on for a couple months as a WAE. We are clearing the D-Notice and ALDAC with the Executive Directors. I have sent out an email to the BRCs (with cc to Executive Directors) and will be sending similar to the IMOs shortly. I will bring up more Government Briefing Booklets if you would like to use them at the REDS session. I will check into Dave Adams at H later (I have a session with opposing counsel re Manning Prosecution this afternoon). Thank you for your support!!!

Tasha M. Thian, CRM
Agency Records Officer
A/GIS/IPS/RA
(202) 261-8424
Fax: (202) 261-8590
thiantm2@state.gov

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Our mission is to meet the information needs of our customers and the United States Government.

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

From: Grafeld, Margaret P
Sent: Sunday, January 27, 2013 12:22 PM
To: Thian, Tasha M; Walter, Sheryl L
Cc: Dorosin, Joshua L; Stein, Eric F
Subject: Departing Officials
Importance: High

Sheryl and Tasha,

I am concerned about the departure of senior officials (Harold Koh, the Legal Advisor, and Dave Adams, the A/S for H, have already left) without having been put on notice about their records.

According to today's DN, the Secretary is departing on February 1. This also means that her senior non-career staff, particularly Cheryl Mills (whose records we would want) will also be leaving. While I have spoken with Cheryl months ago about the Secretary's records, Clarence has the first line of responsibility for ensuring that they all (including the Counselor in all her roles) adhere to the laws and regs. I trust you are working closely with him, and also have ensured that your contacts in L and H have done their jobs, including our ability to capture email in our special archive system.

I understand that a DN (and presumably an ALDAC) are in the works. We need to get these out immediately; the FEDs already asked the question, and I anticipate the same from the REDs tomorrow.

I think we may need to have a direct communication with both the FEDs and REDs, in addition to your bureau coordinators and management officials at posts at least providing PoCs and a reference site. It would be most helpful if I could have a handout sheet before noon for tomorrow's meeting with the REDs.

While I realize that you and yours are busy, there is a very small window of opportunity on this.

And the same applies for the incoming SecState and his team. I will try to chat with M about it tomorrow.

Hope you're enjoying the weekend. It will be a very busy week to come.

Regards,
Peggy

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Exhibit 14 –
(Tasha Thian,
State Dep't Records and the
Elections,
goodreads.com)

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Help give books to kids

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Is Fundamental

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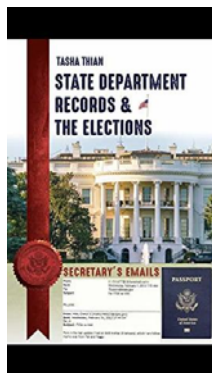


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State Department Records & The Elections

by Tasha Thian

3.25 · Rating details · 4 ratings · 2 reviews

The U.S. Department of State has been center stage in our Presidential elections. At first glance it may seem odd that a foreign policy agency could so significantly impact domestic Presidential elections but it has on several occasions in the recent past. We cannot escape the near constant news media and Congressional attention concerning the 2016 Presidential election. Secretary Clinton's use of a private email server, why she lost the election, and concerns about the legitimacy of the Presidency are nearly daily topics in news media reports. The Federal Bureau of Investigation, Department of Justice, Inspector Generals of the Intelligence community, and the Department of State conducted inquiries. Yet it is not easy to put the pieces together to understand what really happened. Records and Information Management expert and former Department of State Records Officer Tasha Thian tells the untold, behind the scenes story with never before released material that is certain to surprise the readers.

State Department Records & the Elections will shed light on the inter-workings of government, the impact of our political system on agencies and their staffs, and why records management and information access are so important to our American experience. You will learn about U.S. citizenship laws and how they relate to the Presidency, why Department of State records are important, what happens when political parties seek protected information, and the various investigations and news media outcry that ensues during very contentious and hotly debated elections. Tasha Thian gives an eye witness account and detailed analysis of records activities as they related to the Bill Clinton Passport File Search, the Hillary Clinton Email Server investigation, and on a number of other famous politicians, as well as other significant events.

About the Author

Tasha Thian served as the U.S. Department of State's Records Officer from 2007 – 2014. She has more than 20 years of experience in leading records management programs. Mrs. Thian also served as the Chief of the Records Services Division in Passport Services and she was the Director of Corporate Records Management at the National Archives and Records

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Tasha Thian

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Administration (NARA). Mrs. Thian is a Certified Records Manager with the Institute of Certified Records Managers. She is the recipient of numerous awards including several Meritorious Honor Awards. Her organizations received the prestigious Archivist Achievement Awards from NARA. In her early years Mrs. Thian served in the U.S. Navy. She holds a Bachelor of Arts degree in Forensic Studies from Indiana University. Mrs. Thian retired from the Federal government in 2016 after 35 years of service. ([less](#))

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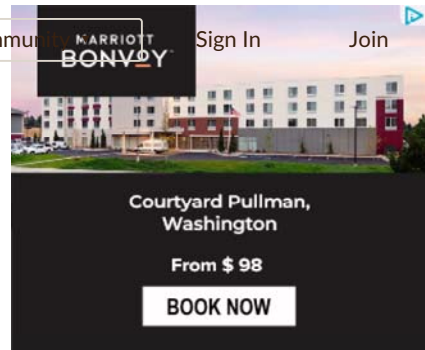
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