NARA

Wednesday, March 1, 2023

U.S. House of Representatives,
Permanent Select Committee on Intelligence,
Washington, D.C.

The committee met, pursuant to call, at 9:01 a.m., in Room HVC-304, Capitol Visitor Center, the Honorable Michael Turner (chairman of the committee) presiding.


Staff Present:
THE CHAIRMAN: Before we begin -- I am going to call the committee to order -- and before we begin, the committee's security director has an announcement.

I just want to remind everyone, if you haven't already left your electronics out front, please do so at this time. That includes iPhones, Androids, tablets, laptops, recording devices, cameras, wireless headsets, pagers, and any type of Bluetooth wristband or watch, with the exception of any approved medical devices.

THE CHAIRMAN: Obviously, with the recent focus of classified documents that were found at President Trump's, President Biden's, and Vice President Pence's house, there has been renewed focus on the role of the Archives and the Archivist in both Presidential records and the handling of classified documents.

One of the concerns, obviously, is the identification of classified documents and the manner in which very sensitive materials and classified documents are handled by the Archives.

Our effort today is to try to learn more from you about your processes because, as the committee that deals with some of our most secret issues, we are going to be looking at how classified documents are handled, and you certainly are part of that missing puzzle.

I have an opening statement that I would ask to submit
for the record.

[The statement of The Chairman follows:]

******* COMMITTEE INSERT *******
THE CHAIRMAN: To my ranking member, Mr. Himes.

MR. HIMES: Yeah. Thank you, Mr. Chairman.

And thank you to the witnesses for appearing today.

I hope today's session will provide us with a baseline understanding, perhaps one that we didn't have before, of NARA's important but limited role in preserving and protecting classified records. There has been, obviously, a great deal of attention paid in recent instances in which classified records that should have been residing with NARA or another secure facility have been found unsecured.

I understand that you are not in a position to enlighten us about the specifics of those cases, but I hope that you can help us understand the process of Presidential transitions and NARA's role.

This occupied a huge space in the American imagination, and it sort of feels to me, unburdened by facts as I am, like we just don't have basic processes. It should not be that complex or as expensive to make sure that these records are secure.

I also welcome your views as to whether there are any additional legal or policy changes that could be adopted to help address the issue of classified records not being properly secured.

Again, thanks for the opportunity to have this conversation. I yield back.
THE CHAIRMAN: Who will begin?

MR. BOSANKO: I will go.

Good morning. Thank you, Mr. Chairman and Mr. Ranking Member, for the opportunity to share some information with you today about how the National Archives and Records Administration safeguards classified information and manages its declassification when appropriate.

By way of introduction, I have worked at the National Archives for more than 30 years. I have served as the chief operating officer for the last decade, and I oversee all of our archival operations.

Since 2017, I have played a leading role in interagency efforts to comply with the JFK Assassination Records Collection Act. I also led efforts to have the Central Intelligence Agency declassify the oldest pre-World War II classified documents at the National Archives.

I worked at the Information Security Oversight Office for more than a decade and served as its director during parts of the George W. Bush and Barack Obama administrations. In that capacity, I co-led the drafting of Executive Order 13526, Classified National Security Information, and I led the drafting of its government-wide implementing directive 32 CFR part 2001. I also led the drafting of the first Public Interest Declassification Board written report.

The holdings of the National Archives represent the
largest and most complete mosaic of the classified activities of the United States Government. We receive the equities of every department and agency in all formats and at all classification levels.

Our classified holdings include those of each Presidential library, from Hoover through Trump. Besides the classified records of permanent historical value that are in our physical and legal custody, our Federal Records Centers Program provides reimbursable classified records storage and related services to other departments and agencies.

In addition, our classified holdings include not only those of the executive branch, but those of the legislative and judicial branches as well.

On the other end of the spectrum, our unclassified and declassified holdings represent the largest and most complete body of open source information on the U.S. Government's activities.

I am not sure what specific questions you might have in store for me today, but you are right to ask them. All too often the role of the National Archives with regard to classified information is overlooked or misunderstood.

I look forward to the opportunity to discuss our mission and the challenges we face with you. Thank you.

MR. BRADLEY: Good morning, Chairman Turner, Ranking Member Himes, and committee members and staff. Thank you for
the opportunity to speak with you today about the critically
important topic of classified national security information.

My name is Mark A. Bradley, and I currently serve as the
fifth director of the Information Security Oversight Office,
or ISOO as we are often called, at the National Archives and
Records Administration. As I will explain shortly, my office
plays an important role with respect to classification and
declassification, oversight and policy for the United States
Government's executive branch.

Before serving in my current position, I served at the
Department of Justice as director of Freedom of Information
Act declassification and prepublication review at the
National Security Division, as well as deputy counsel for
intelligence policy, where I practiced in front of the U.S.
Foreign Intelligence Surveillance Court, and acting chief --
first acting chief -- for intelligence oversight at the
Department of Justice.

Before that, I worked as Senator Daniel Patrick
Moynihan's last legislative director, a public defender here
in the District, and as a CIA intelligence officer here and
overseas.

Out of all those roles in my career, my role as director
of ISOO has turned out to be the position with the broadest
array of responsibilities and probably dealing with the most
arcane subject matter.
ISOO was established by an executive order by President Jimmy Carter, who signed it in 1978. ISOO is at least a product, probably a direct product of the Church Committee. You all will remember the Church Committee, abuses of the Intelligence Communities. We were looking for independent oversight.

We support the President by helping to ensure that the government protects and provides proper access to information to advance the national and public interest. So we are constantly balancing between classification and declassification. We do this through standardizing and assessing the management of classified and controlled unclassified information through oversight, policy development, guidance, education, and reporting.

In particular, my office has significant responsibilities under four executive orders, as well as one statute, with a staff of approximately 20. I say 20 because it fluctuates back and forth. We are hiring a couple.

I, myself, am retiring at the end of June, so we will be needing a new director. Hopefully, that will happen as soon as we get a new Archivist. This job requires the nomination of the Archivist of the United States, and then the President of the United States has to approve the position or the person selected.

The first of the orders that we are responsible for is
the one that Jay mentioned, Executive Order 13526, which
governs classified national security information. It was
signed by President Obama in 2009, and it governs how we
classify and declassify information in the executive branch.

The second is Executive Order 12829, as amended, titled
the National Industrial Security Program, which governs
classified information that is handled by contractors,
licensees, and grantees of the United States Government.
That is the so-called national industrial base.

Third is Executive Order 13549, titled State, Local,
Tribal, and Private Sector Entities, which established a
program to safeguard and govern access to classified national
security information shared by the U.S. Government with
State, local, Tribal, and private sector entities.

Fourth, Executive Order 13556, Controlled Unclassified
Information, which established a uniform program for managing
information that is not classified but which still requires
safeguarding or dissemination controls that are consistent
with Federal law, regulations, and government-wide policies.

Fifth is the Public Interest Declassification Act of
2000, as amended, which established an independent government
board, called the Public Interest Declassification Board, and
designated the director of ISOO to serve as its executive
secretary and my staff to provide administrative and staff
support to the board. Incidentally, I co-wrote the
legislation which created that board when I was with Senator
Moynihan.

My office is also referred to in several other policies, including Executive Order 13587, Structural Reforms to
Improve the Security of Classified Networks and the
Responsible Sharing and Safeguarding of Classified
Information, and Executive Order 13691, Promoting Private
Sector Security Information Sharing.

There are several areas of responsibilities that I feel
are of particular significance and importance I would like to
highlight for you today.

ISOO serves as an independent, neutral office to oversee
the Classified National Security Information Program across
the executive branch. It is important to note that we are
not located within the Intelligence Community, and that is by
design. We are not in the IC, we are not in the Department
of Defense, not at the Department of State, not at the
Department of Homeland Security, or any of the other 18
members that make up the U.S. Intelligence Community.

I would like to refer to the importance of this
neutrality as being the umpire in a baseball game. We call
the balls and strike as we see them impartially, without
influence by one department or agency.

Another important thing we do -- I think it is probably
the most important thing we do -- is report annually to the
President of the United States on the health and status of the Classified National Security Information System. We execute this through a report that I write, and it passes to the President through the National Security Advisor. In the past, I have used this report to highlight key recommendations and judgments concerning the system as well as reporting oversight data and information.

Pursuant to 32 CFR 2001.36, another function my office does is we have a small team that manages the Classified Outside Government Control Program, which provides for processes by outside government organizations or individuals to contact ISOO for guidance and assistance when they discover potentially classified national security information outside government control.

I think specifically about libraries. Since about 2010, we have gotten over 80 calls from different libraries where mostly Members of Congress have taken papers and deposited them in libraries for collections, their own papers. For instance, Senator Muskie at Bates College took 98.

Anyway, when these records are being processed, librarians know to call us. We dispatch a team to go retrieve them and bring them back to Washington.

THE CHAIRMAN: I am sorry. You were unclear. As you get phone -- I am sorry to interrupt.

MR. BRADLEY. Sure. Go ahead.
THE CHAIRMAN. But you went to pronouns, and we lost context.

MR. BRADLEY: Go ahead.

THE CHAIRMAN: You said Members when they retire --

MR. BRADLEY: Correct.

THE CHAIRMAN: -- give their materials to libraries.

MR. BRADLEY: Sometimes.

THE CHAIRMAN: And you get called by those libraries.

MR. BRADLEY: Yes, sir.

THE CHAIRMAN: Why?

MR. BRADLEY: Because they know that the information belongs to the United States Government.

THE CHAIRMAN: Which information?

MR. BRADLEY: Classified information.

THE CHAIRMAN: Okay. You didn't say that. That is why I wanted you to say that.

MR. BRADLEY: That is what I meant.

THE CHAIRMAN: So could you go back again when you started this sentence to tell what was the number of contacts that you have had?

MR. BRADLEY: We have had over 80, sir.

THE CHAIRMAN: Eighty?

MR. BRADLEY: Since 2010.


MR. BRADLEY: Yes, sir.
THE CHAIRMAN: Of libraries that have contacted you and said: We have classified information from Members of Congress.

MR. BRADLEY: Correct, sir.

THE CHAIRMAN: Okay. Thanks. I just want to fill in your sentences.

MR. BRADLEY: That is all right.

THE CHAIRMAN: Because you dropped a bunch there. Thank you.

MR. BRADLEY: Quite all right. Thank you for the amplification.

I also serve as the executive secretary of the body established under Executive Order 13526, called the Interagency --

THE CHAIRMAN: Sir?

MR. BRADLEY: Yes, sir.

THE CHAIRMAN: I am assuming -- I am sorry to interrupt again.

MR. BRADLEY: Go ahead.

THE CHAIRMAN: I am assuming that that fact, even though we are in this SCIF, is not classified information.

MR. BRADLEY: No, sir. It was in The Washington Post a couple of weeks ago.

DR. WENSTRUP: That doesn't mean it is not.

[Laughter.]
THE CHAIRMAN: Okay. Great. I didn't see it there.

Yes, we all know that. That is a very good point, very
good point.

MR. BRADLEY: It is unclassified.

THE CHAIRMAN: So can we have -- so this is your
information. I just want to have an agreement that you are
informing this committee that you are informing us of a
nonclassified fact: that you have received contact from 80
libraries to which Members of Congress materials have been
sent that found that there were classified materials in those
documents.

MR. BRADLEY: We have gotten over 80 calls from
different -- different -- I want to say 80 separate
libraries. We could go back and get you the exact number.

THE CHAIRMAN: But I mean it is because of 80 --

MR. BRADLEY: Yeah.

THE CHAIRMAN: -- separate caches --

MR. BRADLEY: Yes, sir.

THE CHAIRMAN: -- of Member of Congress documents?

MR. BRADLEY: Or other documents, too. I mean, not just
to point the finger at Members of Congress, too. I mean,
this is not --

THE CHAIRMAN: But all the calls were classified --

MR. BRADLEY: They were classified --

THE CHAIRMAN: -- concerned classified documents.
MR. BRADLEY: Yes.

THE CHAIRMAN: And you are informing us that on a nonclassified basis so we can repeat this publicly.

MR. BRADLEY: You can, sir.

THE CHAIRMAN: Thank you.

MR. BRADLEY: In fact, we can send you the Washington Post article.

THE CHAIRMAN: Please, continue. Thank you.

MR. BRADLEY: Sure. All right. Okay.

I serve also as the executive secretary of a body established under Executive Order 13526 called the Interagency Security Classification Appeals Panel. This panel has the authority to perform four critical functions, which are deciding on classification challenges from inside the executive branch of the United States Government; approving, denying, or amending agency exemptions from automatic declassification; deciding mandatory declassification reviews; and informing senior agency officials and the public of final panel decisions.

I also serve as the executive secretary of the Public Interest Declassification Board, which we have mentioned here before, which is an advisory committee established by statute with a mandate of promoting the fullest possible public access to a thorough, accurate, and reliable documentary record of significant U.S. national security decisions and
activities.

Last year, I highlighted six recommendations in my report that I want you all to know about and to consider.

One, that the White House aggressively push to update the critical national security authorities governing the classified national security system per the Executive Orders 13526 and 12829. 13526 goes back to 2009. The order that governs our national industrial security base goes back to the mid-1990s. I don't have to tell you the changes that have taken place during that time period.

Two, that the White House -- and this is extremely important -- ensures that modern technologies are applied to support a modern declassification system. Right now, too much of this is done by hand.

Three, that all agencies must implement the Controlled Unclassified Information program under Executive Order 13556 to fill a critical national security gap. There is unclassified information, classified information, and then there is a huge swath of information that is sensitive but neither one. That information is of huge interest to our adversaries, especially to the Department of Defense's sensitive technologies.

Four, that the administration must develop and implement new flexible personnel policies and spend the necessary funds to expand secure communication capabilities. We learned that
during COVID.

Five, that the agencies must update, correct, streamline, and reduce the number of their security classification guides. Right now there are 2,116 separate guides we have been able to identify that govern how agencies classify information. So we are trying to add for more standardization, more consistency.

Six, that the White House should reevaluate the criteria for creating and maintaining special access programs, including additional oversight of these programs. An area where I believe that Congress may be able to support these key recommendations is through the possible establishment of a new congressional commission staffed by experts to examine the second recommendation, which deals with technology.

As I said, I worked for Senator Moynihan. The Moynihan and the Hamilton commission on government secrecy now is almost 30 years old. It would be useful to have another look at this stuff from the outside by experts, especially being able to explain what technological developments are happening out there that we could adapt for our own -- adapt -- adopt and adapt for our own use.

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

THE CHAIRMAN: Let me just start with: Wow. Okay. Let's try to get -- so this, obviously, is an area that we
are not incredibly familiar with but came into the limelight. And intuitively we should have been aware that, with the Presidential Preservation Records Act, that your role was going to include classified information.

But it was a surprise to us the manner of which this is all handled, even though we are a customer of yours. I understand that we send our classified documents to you when we are done with them.

So the problem is, is that from the point of understanding that documents were packed at the White House and went to you, and that documents were packed here and went to you, nobody has looked under the hood. And so that is what we are trying to figure out at this point, is: How does this work? How should it work? What do you need?

And so let's start with you, Mark, with a question, because you have raised some questions just in your comments themselves.

One, you listed a bunch of recommendations from a report that you did. We don't have that report. Can you send us that report?

MR. BRADLEY: Absolutely.

THE CHAIRMAN: And what else is in that report besides the recommendations that you listed for us? What is its context?

MR. BRADLEY: It is a detailed report. It deals
overall, Congressman Turner, with the health of the
classification/declassification system. So it is looking at
specific trends and data. We track the number of people in
the government who have original classification authority.
We tracked the number of classification guides.

So it gets very granular at certain levels. But it is
also looking at much broader things.

I mean, we are, as you might have guessed from my
opening statement, we are a unique office. We are probably
the only one in the government, the executive branch anyway,
who has a good 50,000-foot look at this system.

THE CHAIRMAN: Okay. And give us some understanding.
My understanding is that you are part of the Archives.

MR. BRADLEY: We are, sir.

THE CHAIRMAN: Okay. So do you report to the Archivist?

MR. BRADLEY: I take my policy guidance from two
streams, one, from the Archivist of the United States, and
secondly, from the National Security Council. So we are kind
of an odd body.

THE CHAIRMAN: How many employees do you have?

MR. BRADLEY: Right now, sir, about 18.

DR. WENSTRUP: That is interesting.

THE CHAIRMAN: I was afraid of that.

MR. BRADLEY: Eighteen.

THE CHAIRMAN: So you said that you handle the
classification and the declassification of documents. And I am assuming that that is --

MR. BRADLEY: The policy, sir.

THE CHAIRMAN: Sorry?

MR. BRADLEY: The policy, sir. We implement the policies, or see that the policies are implemented.

THE CHAIRMAN: Across agencies or at the Archives?

MR. BRADLEY: The entire executive branch of the United States Government, sir.

THE CHAIRMAN: With 18 people.

MR. BRADLEY: Yes, sir.

THE CHAIRMAN: So let's just focus on the Archivists for a second. So you report to them, but you also, in that process of overseeing policy, they somewhat report to you.

In the declassification process, how do you, with all the thousands of pages that must be under the control of the Archivists, determine, of those documents, which are remaining classified and which are now currently declassified?

MR. BRADLEY: We don't, sir.

THE CHAIRMAN: Right. That was what I suspected.

So if you receive a document that is marked classified, even if it has been declassified, even before it got to you, do you handle it as classified if you have no other direction as to whether or not it is declassified?
MR. BRADLEY: It depends how it is marked, sir, whether it has been properly --

THE CHAIRMAN: So do -- I guess I should rephrase this question. Do you only follow the markings of the documents that you have received for determining its handling as classified or declassified?

MR. BRADLEY: We actually handle very little or very few documents ourselves. That is more the National Declassification Center and other parts of the Archives.

THE CHAIRMAN: But do you have give them the direction as to how to handle those documents?

MR. BRADLEY: Directions, broadly writ, are in the Executive Order 13526 and then in the implementing directives.

THE CHAIRMAN: Okay. I have 13556 that you talked about. So --

MR. BRADLEY: Yeah, 13526.

THE CHAIRMAN: Maybe this is an appropriate question to Jay.

Jay, you get a box. It has documents in it that are marked classified. You have no other information as to the status of those documents. Do you have handle them in perpetuity as if they are classified?

MR. BOSANKO: No, we do not.

THE CHAIRMAN: And how do you determine whether or not
they have been declassified?

MR. BOSANKO: So there are two streams, if you will, because the standards change once material is more than 25 years old.

But, regardless, if we look at a document and those classification markings and there is any doubt as to the classification status of the information, we are going to coordinate back with the originating agencies and any other agency that has an equity in that document.

When the materials are more than 25 years old, we have some additional authorities. It is not solely up to an individual agency as to what they can keep classified beyond 25 years.

But, yes, when we --

THE CHAIRMAN: So does that means that you do have some declassification authority?

MR. BOSANKO: Yes, we have declassification authority through classification guidance, memorandums of understanding and agreement with other agencies, things of that nature.

THE CHAIRMAN: Can you provide those to us, please, that specifically relate to your declassification authority?

MR. BOSANKO: Yes.

THE CHAIRMAN: Okay.

How many thousands of pages do you think you have that are actual classified and that are and/or being treated by
MR. BOSANKO: Buckle up. I am storing 555,000 cubic feet of classified national security information. To put that in perspective, the white boxes that many of you have seen in your offices, that is a cubic foot. It holds about 2,500 pages.

Another way for me to describe it, a typical stack area that we store records in a Federal records center can hold about 100,000 cubic feet. And that is a room that is about roughly the size of a football field. So you are looking at five and a half football fields floor to ceiling shelving of classified.

I can break that out --

THE CHAIRMAN: Can you pause for a second? Okay. Go ahead. Please tell us everything you have got on a piece of paper.

MR. BOSANKO: I can break it out just for context. About 4,800 cubic feet is classified congressional and legislative branch materials. I have got about 39,000 cubic feet out of the Presidential library system, 154,000 cubic feet of Federal records, about 9,000 cubic feet of what we call special media records. So we have classified motion picture films, audio tapes, things of that nature. And then there is 350,000 cubic feet that we are storing on behalf of other Federal agencies as part of our reimbursable records.
THE CHAIRMAN: And how many employees do you have that maintain those records?

MR. BOSANKO: Cleared staff? Nationwide, 563.

THE CHAIRMAN: Okay. Are they the only ones -- so you have staff that are cleared that have access to these 550,000 square feet, or whatever it is --

MR. BOSANKO: Cubic feet.

THE CHAIRMAN: -- cubic feet of documents. What do they do with them? Do they just watch them? Do they go through them? Are they processing them?

MR. BOSANKO: So the 350,000 cubic feet that we are storing and servicing on behalf of other Federal agencies, we are essentially receiving those materials, securing them in a vault, and then they sit in that vault space until another Federal agency that owns them needs access to them. They may get access to them to respond to an oversight request from the Hill. They might need access to them to respond to a Freedom of Information Act request. Or they might need access to them for their own mission requirements.

THE CHAIRMAN: So are they -- they are cataloged in a manner in which you can retrieve them. Is that correct?

MR. BOSANKO: At the box or the folder level, but not at the document level, yes, sir.

THE CHAIRMAN: So do you have any information as to the
MR. BOSANKO: When an agency sends a transfer to the Federal Records Center Program, we get general information about what the transfer includes. So it might say, for example, the Secretary of Defense's Correspondence File 1960 to 1965.

In the first box, in the first folder of the first box, there should be a folder title list that then lays out the folder titles to help us and then manage the records. But beyond that, we don't have --

THE CHAIRMAN: Okay. That is what I was going to get to. You just said "us and then manage the records." So how is it that you manage the records?

MR. BOSANKO: So we will do pulls and refiles for them if they need access to specific items that are in those boxes.

THE CHAIRMAN: Do they open them? Do they determine that the inventory in the front is accurate? Do they determine that the inventory, when it comes in, is complete? And do you do any security inventory to determine that nothing is missing?

MR. BOSANKO: So when a transfer arrives on the loading dock, we spot-check the materials to make sure that they are what they said they were, that the classification level is correct. We do make sure that the folder title list is
there, and that it is generally accurate. But we don't do -- we are not resourced to do any kind of inventory.

As far as knowing that something is missing, we wouldn't know that.

THE CHAIRMAN: And what is the classification of the people that are on the loading dock?

MR. BOSANKO: These materials are received via secure transportation, secure couriers. And then the people that are receiving the materials on the loading dock have the appropriate security clearances for the materials that are coming in.

THE CHAIRMAN: Presidential records. What is your inventory notice of what you are going to receive before you receive it? Is it just like the loading dock, the box shows up? And is an inventory on it? Or do you have some understanding of what the inventory of Presidential records are going to be that you are going to receive?

MR. BOSANKO: So every transfer is different. The biggest difference is whether it is a one-term or two-term.

If it is a second-term transfer, they have known for 4 years that the date is coming, and everybody has kind of rolled up their sleeves earlier in the process to prepare for transfer.

When it is a one-term, it is usually a hurry-up. You are going from November, the loss of an election, to a
January transfer date.

THE CHAIRMAN: Let me be more specific. When we deliver documents to you, you don't know what is coming, you don't know what we have. I am assuming that you don't know what Presidential records a Presidential administration has.

MR. BOSANKO: Correct, other than we have been doing this for so long in so many administrations, we know the types of things --

THE CHAIRMAN: Right. Categories, but not specifics.

MR. BOSANKO: Right.

THE CHAIRMAN: Right. So how is it that you knew that there were Trump documents missing if you don't know what documents an administration has and you don't know what documents we have that are intended to go to you?

MR. BOSANKO: So, Mr. Chairman, I can't speak to aspects that are going to tie back to the actual ongoing investigation, but --

THE CHAIRMAN: But you are not the Department of Justice. You are not in an investigation. You are a witness. And you are also a witness in front of our committee, and we have absolute jurisdiction over this topic, and we want to understand custody and control.

MR. BOSANKO: I am going to get to that.

THE CHAIRMAN: And this is one who we actually understand occurred. So, please, answer the question.
MR. BOSANKO: Yeah. My goal is to get to yes. I just need to be mindful of -- I have been interviewed by the Department of Justice and the FBI, and I have been put on notice.

MS. STEFANIK: Put on notice? What do you mean?

MR. BOSANKO: That I have been told that the information that I am providing is directly related to an ongoing investigation and that I am not to --

MS. STEFANIK: So they told you what to say to this committee?

MR. BOSANKO: No, they don't even know I am here.

THE CHAIRMAN: Okay. So, Jay, help us get to yes. Show us how it is that --

MR. BOSANKO: So I am going to speak hypothetically. So it is -- inside the White House the records flow through the White House Office of Records Management, affectionately known as WHORM -- just in case I say "worm" --

THE CHAIRMAN: Go ahead.

MR. BOSANKO: So as those materials go through that office, they are capturing different information, they are doing the minimal amount of sort of cataloging, if you will, that they are able to do. They are --

THE CHAIRMAN: Who do they report to?

MR. BOSANKO: The White House Office of Records Management, I believe, is part of the Office of
Administration, but I am not 100 percent.

THE CHAIRMAN: Okay. That is fine. We will find out.

MR. BOSANKO: So not specific to any administration, but over time they have learned that they need to keep their eyes and ears open to ensure that certain things flow through the office. So if a President of the United States says today I signed or I receive or something is covered in the press, they know, hey, that is going to be -- you know, a classic example is one President leaving a letter in a desk for the next President. It is something that they make reference to. Everybody knows it is there. They are looking for it because of the historical significance.

So they are keeping a running list of things that kind of flow through that office. And if certain things don't flow through the office, then they are aware of it --

THE CHAIRMAN: Do they flow through that office to you?

MR. BOSANKO: Eventually what goes through WHORM will come --

THE CHAIRMAN: So that is the office that handles the actual transference of official Presidential records to the Archives?

MR. BOSANKO: In large measure, yes.

THE CHAIRMAN: So, physically, they are the ones who receive them and transfer them to you.

MR. BOSANKO: Yes. The final transfer, it is a very
rushed -- WHORM is a very small office, not everything is
flowing through them.

We largely work with the Department of Defense for
logistical support. But we essentially are going up, we are
moving the materials as they are given us to. We stage them
out of Archives I, the main National Archives building. And
then we work with DOD to prepare them for eventual shipment
to wherever they are going to be.

But our role is largely that of a receiver, and then we
use the next 5 years to get ready for the onset of FOIA.

THE CHAIRMAN: So does -- I almost said "mole," excuse
me -- does WHORM handle Vice Presidential offices? Because
we have two Vice Presidential offices that have records that
didn't make it to you that apparently nobody knew existed.
Is that a gap?

MR. BOSANKO: So not everything is going to flow through
WHORM. I believe that the Vice Presidential materials would
as well. But I am not sure that -- you asked for general
advice. I don't --

THE CHAIRMAN: If they are doing sort of this sensing of
what should be there.

MR. BOSANKO: I think the bigger challenge is one of --
what you have here is the intersection of classification
management, records management, and information management.
And under the PRA, the Presidential Records Act, the
President is wearing multiple hats during the course of a day. At certain points in time, he is acting as a private individual, he or she. At other times they are dealing with a political question: Should they run? Yes? No? And other times they are doing the traditional work of the President.

So there are almost three buckets, if you will, that their paperwork needs to flow through. But the PRA isn't -- the way it is set up as far as how the records ought to flow and how we all work throughout our day doesn't quite line up.

So there is the records management aspect.

Mark made reference to 80 instances. Classified has been going outside of government control for an extended period of time. More often than not it is not due to a lack of care or respect for classified. It is just a matter of how people are moving paper throughout the day. And then the information management pieces, it is not -- we have got to move to electronic record keeping and live digitally more in order to manage this.

THE CHAIRMAN: This is my last question. I promise you no follow-up to this question, but this is like a substantive question for which we need an answer.

Jay, Mark, were either of you the individuals at the Archivist that contacted the Department of Justice concerning the documents that were outstanding from the Trump administration?
Jay, yes, no?

I have no follow-up questions.

MR. BOSANKO: No, it is okay.

THE CHAIRMAN: I am just asking for yes, no.

MR. BOSANKO: It is a yes, however, our referral was
done to our Office of Inspector General, who then referred it
to the Department of Justice.

But, yes, I was very much involved in all three of those
as well as many of the 80 before that. I have been doing
this for a long time.

THE CHAIRMAN: Well, then, I am going to have to ask you
a follow-up question.

MR. BOSANKO: That is fine.

THE CHAIRMAN: Because I didn't expect you to identify
someone else.

MR. BOSANKO: That is okay.

THE CHAIRMAN: So the call went from the IG to DOJ?

MR. BOSANKO: Correct.

THE CHAIRMAN: Mark, you weren't involved?

MR. BRADLEY: No, sir. We have nothing to do with the
Presidential Records Act. Thank God.

[Laughter.]

THE CHAIRMAN: Yet. We could change this law.

Ranking Member Himes.

MR. HIMES: Thank you.
I want to focus very narrowly on the three issues before us here. And by the way, I am completely uninterested in the specific of those issues. We just know that we have bad processes for Presidents and ex-Vice Presidents to secure these documents. Again, completely uninterested in what the DOJ cares about, which is the specifics of the case. I just want to sort of tease out possible processes.

And my frustration comes from, I am hearing proposals for commissions, and this is a really complicated problem. I have never worked in the executive branch, but I have talked to people who have. Almost everybody I talked to says it is chaos at the end of an administration. You know, papers everywhere, boxes everywhere. Everybody is out watching a parade on Pennsylvania Avenue. And there are 24-year-olds throwing documents into boxes.

So I understand this is totally speculative, but I just want to form in my own mind what the nature of the problem here is.

So, again, based on what you know, with zero interest in the particularities of these three cases, is it likely, based on what you know about these transitions, that we have an underwhelming process? And what I mean by that -- let me ask specific questions.

At the end of an administration, at the Naval Observatory and the White House, are your people in the room
for the final boxing up of paper?

MR. BOSANKO: No.

MR. HIMES: Okay. So one thing we might consider would be somebody who understands classified information, presumably not somebody -- somebody who understands classified information being physically present on that one day when the boxes. Right?

I mean, again, I have got to be serious about this, but it just doesn't strike me as that hard of a problem. One of the things we might do is make sure that on that chaotic day somebody from your organization is there and responsible for every last piece of paper that is in the building, correct?

MR. BOSANKO: Yes.

MR. HIMES: Okay. So that gets me to --

MR. BOSANKO: Preferably not just on the last day. A little --

MR. HIMES: Yeah. No, I understand.

MR. BOSANKO: The more time the better.

MR. HIMES: No. And there has been some interesting contrast drawn between -- and I am not going to use names here -- but Presidential administrations that were very disciplined about the regular provision of information and administrations that were not. I could imagine it is a lot easier on day -- last day -- if an administration has been disciplined.
So there is an interesting line in the briefing I have here, which is that NARA has no independent authority or capacity to enforce or compel compliance with the PRA.

Do you feel like when a new administration comes in, with everybody from the Secretary of Defense to the 22-year-old intern, do you feel like you have adequate access to at least train and educate everyone who is going to be exposed to Presidential records as to the best practices and systems that are designed to protect those documents?

Is there an ongoing initial onboarding training for everybody who is going to have access to Presidential records?

MR. BOSANKO: We are not involved in any such activity.

MR. HIMES: Okay. And, presumably, if this is to be good activity, you would be?

MR. BOSANKO: In an ideal scenario, yes, absolutely.

MR. HIMES: So when somebody goes to work for the White House, who does the training around Presidential records, not the handling of classified information but around the obligations associated with Presidential records?

MR. BOSANKO: So under the Presidential Records Act, the President themselves has great and wide discretion with respect to how to apply the PRA in their administration.

What we typically are able to do is to provide them with some initial early guidance, make sure they know what the PRA
is, they know that we are a resource.

One of the things they will typically do is they will look at the guidance that the prior administration might have issued or other past administrations. And then usually White House counsel is going to draft their guidance. Every administration under the PRA has drafted guidance for the PRA.

Interestingly enough, the guidance for the Trump administration is the only guidance that has ever been made public. It was actually released and is available.

What they do then as far as training for personnel, I am not privy to that.

MR. HIMES: Okay. So it is possible that this guidance exists on a piece of paper in the White House counsel's office, but it is possible that all these hundreds of people who go to work around the President never receive any training or even exposure to that guidance. It is possible.

MR. BOSANKO: We know that some training is done in the past because we see the vestiges of it in the records. But it is possible that as people come and go, whether or not that is the first thing that they get on day one, things of that nature, no idea.

MR. HIMES: Okay. My last question. I have been sort of focused on paper documents. Again, in my briefing here it says: The NSC's executive secretary maintains a searchable
database of nearly all classified records generated over the

course of an administration.

So help me understand that. And it may get to the
chairman's question around: How do we know if a document is
missing? I am concerned about this "nearly all" qualifier.

So here is my question. If a document is -- if a
classified document is printed and handed to the Secretary of
Defense, or whoever, is a notation made in this database that
there now exist a copy of this classified document inside the
White House? Is it with that level of precision that this
database operates?

MR. BOSANKO: So you hit upon a key thing that I should
have referenced earlier, which is that you have White House
Office of Records Management, NSC has its own records
management component.

With regard to that specific system, I have no awareness
of it or how it works or what they annotate or what they
don't annotate.

MR. HIMES: Okay. So is there a formal -- so NSC has
this pretty substantial responsibility to take care of
classified information as well as to abide by the
Presidential Records Act. Is there a robust back and forth
between your office and the ever-changing NSC about best
practices and procedures and guidance?

MR. BOSANKO: If you hadn't used the word "robust," I
think I would have said yes. It could be stronger.

MR. BRADLEY: Congressman, if I might, we just, ISOO

last year trained the NSC on handling classified information.

So you have to understand, some administrations are more

amenable to training than others. Some are more amenable to

oversight than others. And so a lot of it comes from up top.

MR. HIMES: I mean, I am going to yield back my time

here. But I am concluding from this back and forth -- and

let's set aside all the possibilities that might have

happened with these three principals. God only knows, maybe

there is a Hollywood movie somewhere. But just I am focused

on what are some clear problems.

What I am drawing from this is that there is far from a

robust system for the training of people who have exposure to

Presidential records in their proper handling, storage, and

ultimate disposition. I am drawing the conclusion that

before we start talking about blue ribbon commissions and

national labs being involved -- I say that sarcastically --

we might just consider putting somebody from your office in

the Naval Observatory and in the White House, perhaps, if

nothing else, on the last day of an administration.

And I am learning that maybe we need to take a hard look

at this classified database to make sure that it is, in fact,

comprehensive, that it both records all classified documents

inside the White House as well as the ultimate disposition of
any printouts of those documents.

Are those three fair conclusions from our conversation?

MR. BOSANKO: If our general counsel were sitting next
to me, he would tell me that I should defer to the President
with respect to the implementation of the PRA.

MR. HIMES: You should, but we shouldn't. We make the
laws. We are the Article I authority. So I understand that
it is very tense for you, because at the end of the day you
are an executive creature. But we make the laws, so we can
impose obligations on the President.

MR. BOSANKO: But I am a third-generation libraries and
archives person; a second-generation Archives employee. I
have spent my entire career in the records management space,
and in particular in the classified space. So I owe you my
best, and my best is that this system is in need of greater
attention.

MR. HIMES: Okay. All right. Thank you.

Yield back.

THE CHAIRMAN: Ms. Stefanik.

MS. STEFANIK: So, Jay, NARA was the first entity to
identify classified documents or documents broadly from one
of three prominent elected officials. The other two were
self-identified by staffers for former Vice Presidents.

Why was it that NARA knew about supposed missing
information in one case but not the other two? How can that
happen?

MR. BOSANKO: Sure. So in the first instance, we were not aware of missing classified information. We were aware of missing records. And we worked for over a year to try and recover those materials.

When materials were finally shipped to us after nearly a year, it was when we received the boxes of materials and opened them that we discovered classified national security information. And that was when we had to sort of look at that situation differently. So we weren't aware that there were missing classified materials.

With the second and third instances, as you note, they were self-identified, but there isn't document-level tracking in the executive branch in the White House Complex. So anybody's ability to know that something has gone missing or astray is very limited.

MS. STEFANIK: So let me take a step back. Let's take out the classification. So NARA knew. And obviously that was what led to the outreach to the previous administration.

What was it that made you do that versus we were unaware from NARA's perspective of the two missing boxes? And my fear here is there could be missing boxes in other garages around the country that NARA has no idea about and whether or not they include classified information.

MR. BOSANKO: Right. So your point at the end there is
something that has been a challenge for me personally in my career.

When I was a junior analyst at ISOO, I was sent out to Stanford University. There was a vault there. And they had asked for help from the National Archives to try and figure out all of this material they had. It came from multiple donations over the years from multiple officials.

Fast forward. Mark made reference to Senator Muskie. I actually went up to Bates College. I was the ISOO staffer that was sort of the first person there and going through the materials and hand-carrying it back.

In 2009, when the President issued the new executive order and I was leading the development of the implementing regulation, 32 CFR Part 2001, I intentionally put language in there for the first time that covered what you are supposed to do when there is classified outside of government control. And those provisions were put in there because of exactly the concern that you have, is what else is out there.

With the first instance, there were multiple high-visible items --

MS. STEFANIK: Like what?

MR. BOSANKO: The letter between President -- that President Obama had left for President Trump. The correspondence with the leader of North Korea. There was a whole list of items that we were telling them, the
administration, hey, that we don't have this. It must exist somewhere.

MS. STEFANIK: And that is what led to the outreach, those two letters?

MR. BOSANKO: Those two letters.

MS. STEFANIK: And what else?

MR. BOSANKO: Well, there was a stack of letters between --

MS. STEFANIK: Can we get the list of what led to that outreach? I am asking for that list. So consider that an official request.

MR. BOSANKO: There isn't a formal official list that we are working off of.

MS. STEFANIK: So this is informally making the decision to reach out to the previous administration, previous Presidents?

MR. BOSANKO: Yes.

MS. STEFANIK: Informally. You named two documents here and then said there was a stack of letters and now said there is not a list. So which is it?

MR. BOSANKO: There was never a list. We knew of different items that were missing. So one item was the letter left by President Obama. The second was multiple pieces of correspondence between President Trump and Kim Jong-il.
There were a couple other items that I am not recalling. But these were very obvious things that, given our role as the Nation's record keeper, we went back very informally to representatives of the former President and said: Might you have these?

MS. STEFANIK: I am requesting what those are, specifically, and for you to follow up with the committee.

And my final question -- if you would give me a couple more seconds, Mr. Chairman -- is, has there ever been -- you said, Jay, that you referred this to the IG, who then referred it to the Department of Justice. Has there ever been another case where you have referred a previous President to the IG for not -- for any reason -- or any previous Vice President you have referred to the IG?

MR. BOSANKO: Prior to the three instances that have just happened? No.

MS. STEFANIK: Yield back.

THE CHAIRMAN: Ms. Houlahan.

MS. HOULAHAN: Thank you.

My background is as an industrial engineer, and inventory management is my jam. I did my master's thesis on it. And I have also spent a lot of time in industry with ERPs and warehouse management systems. So I am kind of going to go down a wormhole with you on that.

The first question, more broadly, with the five football
fields, or however many, has that been growing in its size, or is it shrinking because of the electronification of documents?

MR. BOSANKO: That is a really good question. And one would have expected the number to be declining faster than it has.

Part of the challenge is we don't typically receive -- agencies hold on to materials until they, to be honest, usually, until their filing cabinets or their own storage space gets full. Then they shed it, if you will, and send it to the records center. And then they don't then come to the National Archives legally until later.

So it is sort of, as the shift to the use of IT, there is a really long tail before we are seeing --

MS. HOULAHAN: A decline. Yeah.

And in terms of the warehouse management system that I am hoping that you use, is it sort of something that industry would be proud of having? Have you had any opportunity to reach out to industry to understand their best practices in this area?

MR. BOSANKO: Yeah. To be clear, in the Federal Records Center Program nationwide, we are storing 25 million cubic feet of paper. We have our own system that we are using. We have met, for example, with Iron Mountain --

MS. HOULAHAN: That would be my first one, yeah.
MR. BOSANKO: Gone out to their locations, looked at how they operate. One of the benefits of how they work is they -- we store -- if you send me six boxes, I store those six boxes side by side. Iron Mountain plugs the six boxes in. They are a little --

MS. HOULAHAN: Commingling, yeah.

MR. BOSANKO: Yeah. They are a little more efficient. So their system has to be able to manage that.

MS. HOULAHAN: And does your system, whatever proprietary system that you have, which I think probably is problematic to begin with --

MR. BOSANKO: It is held together with bubble gum and baling twine.

MS. HOULAHAN: Yeah, yeah. Does it talk to or speak to the systems that are getting transfers from it in any electronic way?

Because it seems like an obvious fix would be to have electronic bridges between the systems on, instead of the day that you are closing up shop in one office, having a mass scramble to make you are physically accounting for things, rather an electronic transfer of information so that you could find what is missing and what is not missing more quickly.

MR. BOSANKO: Yeah, our systems don't do that.

MS. HOULAHAN: Is there a way that we can be helpful to
allow you to make that transfer happen?

MR. BOSANKO: So we are facing sort of, I would say, three challenges off the top of my head to be able to get to that point.

The first is the system we have in place is sort of on borrowed time.

The second is the inability of executive branch departments and agency systems to talk to one another --

MS. HOULAHAN: Right.

MR. BOSANKO: -- largely because of the security rules that need to be there.

I said three, but those are the two.

MS. HOULAHAN: I don't have a whole lot of other questions, but I would like to understand and be helpful in trying to find ways to think about the data aspects of this. And while we visualize a lot of the products that you are talking about, it is really about the electrical -- the data that is behind it, that is the most useful way that I think that we can manage this.

And so if there is anything that I can be doing or we can be doing as a body to help upgrade those systems for you, as well as to have them be able to talk to other systems, I think that is probably a good way to start to having a more efficient record keeping.

I am just envisioning Indiana Jones and the warehouses.
And back in my day we used to call it the "Joe, go find it" system. And that, I think, is probably what I am envisioning is happening with you guys, too.

MR. BOSANKO: And thank you. And to be clear, I have spoken about what we have, all of those 555,000 cubic feet. There are multiple IC components that manage their own record centers, CIA, NSA, for example. They have their own record center. They don't use our record centers.

Now, they eventually -- their equities are in everybody else's records, so we end up with them as well. So there is a bigger challenge with regard to managing it, sort of the historical classified materials of the IC, than just the Archives.

MS. HOULAHAN: Thank you. I yield back.

THE CHAIRMAN: Just to give people an idea as to where the list is. Next, it is Garcia, Gomez, Scott, Plaskett, Hill -- Hill is gone -- and then Gottheimer.

Next is Garcia.

Mr. Garcia.

MR. M. GARCIA: Thank you, Mr. Chairman.

And thank you, gentlemen, for your time.

Since the age of 18, I have treated classified material like a loaded weapon. If we protect it and store it correctly, it is used in our defense and it is an asset to us. If we don't do those things, then it can literally kill
us. And that is why this is so important.

I think we are all just trying to get to the root cause of how do these mishandlings, these leaks, which is effectively what they should be treated like, how they happen, especially coming out of the White House.

My sense coming out of this discussion and just everything I have seen in the public domain is that there are folks in the White House just running with scissors when it comes to classified information.

Who is the single point of contact, besides the individuals and the President themselves who are in charge of classified material, who are the custodians of classified material at the White House during the two administrations that we have been discussing?

Yeah, Jay, thank you.

MR. BOSANKO: So it is a really good question, and you are focusing in on one of the big challenges. And, essentially, each individual is serving as their own custodian with very limited oversight. And you start off with empty file cabinets and an empty safe. And until it gets full, most people don't worry about records management.

And so when they do, depending where they are in the White House Complex, they are going to get help either from the Office of Administration, the NSC staff.

And, frankly --
MR. M. GARCIA: Not to interrupt you, but we know there is going to be classified information coming through the White House. Literally on day one there should be briefs and turnover and pass down of information.

So why is there not already -- and maybe this is the root cause -- of a permanent structure, of a civilian professional custodian, your counterpart in not just the executive branch writ large, but in the White House, specifically, for the President, for the Vice President, and for the staffers? That doesn't exist right now is what I am taking away from what you are saying, right?
[10:01 a.m.]

MR. BOSANKO: Not to the extent it should. And to me it is a symptom of a bigger problem, which is records management typically is the last thought.

MR. M. GARCIA: Right.

MR. BOSANKO: But if records aren't managed properly we have the current situation which erodes public confidence in the system itself. It puts systems and information and sources at risk. I mean, it is no different --

MR. M. GARCIA: Understood.

MR. BOSANKO: -- than all the other reasons we safeguard.

MR. M. GARCIA: You mentioned -- you said, in your words: not due to a lack of caring of handling of paperwork. But I would submit that it is absolutely due to a lack of caring of handling of paperwork.

I think, because of the cultures in all of these instances, that maybe it comes from the top, like you said, Mr. Bradley.

But each individual is not treating this material like the loaded weapon that it is, and I think that is absolutely the problem.

That is what needs to be changed, in my opinion. If charges need to be filed for individuals who didn't do this correctly, then we should do that to send a signal and hold
people accountable.

And I am talking about everyone that is involved in this, throughout the White House, throughout the administrations, throughout the 24-year-olds.

Do we even know that the 24-year-olds are, you know, the metaphor that we use, the 24-year-old that is packing up on the last week of the administration, are they even cleared? Do we have full accountability of the eyes and the human beings that are in these situations, knowing that they are cleared?

Jay, does that exist right now, some accountability?

MR. BOSANKO: I can't speak for how the White House is managing the personnel that are going through the process. But very often when these things go astray they are in bodies of records that one would expect to be unclassified. So it is possible that they would not be ensuring that.

MR. M. GARCIA: Okay. And then so I think that is root cause.

What has the DOJ instructed you to say or not say or do or not do? You said the DOJ has instructed you. What counsel have they given you?

MR. BOSANKO: That is probably a poor choice of words. "Instruct" sounds much more formal.

I know I was interviewed as a witness in each of the three cases. And through that process it is very obvious
that it is an ongoing investigation. And multiple times the National Archives has had reason to engage with the Department of Justice about the release of information, what we can respond to. And, obviously, they are going to want to protect their equities and interests.

MR. M. GARCIA: Okay. Just to wrap up, there is no formal custodian, there is no formal sort of auditor within the White House protocols that make sure people are cleared who are actually seeing and have access to classified material.

I did find it interesting you were talking specifics about the Trump case but not talking, assuming specifics, about the Biden or the Pence cases.

But I am out of time. So I will yield back.

Thank you, Mr. Chair.

THE CHAIRMAN: Okay. Current standing of the list is Gomez, Plaskett, Gottheimer -- Gottheimer stepped out, he might come back -- Spanberger.

Mr. Gomez.

MR. GOMEZ: Real quick. When it comes to the case, when it comes to the Trump administration, you said that certain just obvious documents were missing; a letter from Obama, correspondence with North Korea, so forth.

In previous administrations, were there any documents that were so obviously publicly known that you should have
received? Were there any instances that you didn't have
those same kind of obvious documents?

MR. BOSANKO: No, sir.

MR. GOMEZ: And that is kind of what my point is. It
wasn't -- I was trying to -- if there were no obvious
documents, then there is no reason to contact the previous
administration to follow up with them on documents that you
should have received. And this instance was more unique
because you knew that these should have been in your
possession.

You said you informally reached out. How was that done?

MR. BOSANKO: It was largely emails and phone calls
between our general counsel and counsel for the former
President.

MR. GOMEZ: Okay. So there isn't an email that has --
was it, in that email, did it include a list of those
documents?

MR. BOSANKO: My recollection is that references were
made to the two examples I gave. And that in and of itself
was sufficient reason to ask them: Do you have any records?
We believe we didn't receive everything. And it was
sufficient for them to then say: We need to go look.

And my recollection is, as part of that, they notified
us pretty quickly that they found the letters. But then they
informed us that, in the course of looking, they had
identified other materials, and then they arranged to ship those materials.

MR. GOMEZ: And then you received those additional materials, and then you noticed certain other documents were missing.

MR. BOSANKO: We didn't notice other things were missing, but we realized that we recovered a great deal of materials we should have received under the Presidential Records Act, and then also the classified national security information that was commingled with what we received.

MR. GOMEZ: And when was it reported to the IG in this long process?

MR. BOSANKO: I don't have any notes in front of me on this topic, and I am trying to give you my best recollection. We received the materials. We opened the materials and knew that there was a problem within the first 24 hours. That kicked off a series of discussions and back and forth between myself, our counsel, the individual that received the materials.

Within a couple of days, maybe within a day or two -- it was a weekend -- we contacted our Office of Inspector General and then went from there.

MR. GOMEZ: Thank you.

THE CHAIRMAN: Austin Scott.

MR. SCOTT: I hope this is short and quick.
But most classified information has a red cover. Did the information that you received have the red cover?

MR. BOSANKO: In the materials that we received that were shipped up from Florida?

MR. SCOTT: Yes.

MR. BOSANKO: There were documents in there that had cover sheets, but an awful lot of them didn't. But they were clearly marked. It was readily apparent that they were classified.

MR. SCOTT: Okay. It was readily apparent from someone who just took a brief look at the documents that it was a classified document. So if it didn't have the red cover, it still had "classified" written across.

So who packed the documents at the White House? That is what I can't get out. Donald Trump didn't pack those documents. Joe Biden didn't pack the documents.

Was it the Office of Records Management? Was it WHORM that packed the documents in the bankers boxes? Who packed the documents?

MR. BOSANKO: I have no awareness or knowledge of who packed those, the boxes we received.

And also the boxes we received, I can't say with any confidence that they were received by us in the same form they were packed up. As a matter of fact, we know they weren't.
MR. SCOTT: I guess what I have a hard time with is how the documents ever got put in the box if they were marked "classified." And that, to me, seems where the breakdown is. And you seem to agree with that, right?

MR. BOSANKO: Absolutely.

MR. SCOTT: So whoever saw the documents -- Donald Trump didn't pack the documents. Joe Biden didn't pack the documents. But someone saw that they were packing classified documents inside a box that was going to an unsecure area. Is that right?

MR. BOSANKO: Yes, sir.

MR. SCOTT: I think that is where the breakdown is, and I think that is what we have got to address. And maybe that gets back to what I think Chairman Turner was saying, that you guys need to be there -- somebody needs to be there that knows what should and shouldn't be packed before it leaves. With that, I yield the remainder of my time.

THE CHAIRMAN: Ms. Plaskett.

MS. PLASKETT: Thank you, Mr. Chairman.

And thank you for the information that you are providing to us.

My colleague, Ms. Houlahan, raised some really interesting points, I think, that this committee needs to look at in terms of I know that there are security issues related to how documents and how your offices speak to one
another. But greater clarity needs to be made between what
is being generated in the White House and you all having a
tickler list.

So you said that there are -- and I think this goes to
you, sir, at the National Archives -- that as things are
happening in a President's administration, during an
administration, you are recalling that events have happening,
documents would be generating.

Are you keeping an actual list of that, or how do you
know what documents should be brought over to your -- in your
possession at the end of an administration?

MR. BOSANKO: Thank you.

So to be clear, the sort of the tickler I was
referencing was inside -- the personnel inside the White
House.

MS. PLASKETT: Okay.

MR. BOSANKO: We at the National Archives --

MS. PLASKETT: And when you say the person, is that
someone from the office, the counsel --

MR. BOSANKO: The White House.

MS. PLASKETT: -- the counsel's office of the President?

MR. BOSANKO: White House Office of Records Management.

MS. PLASKETT: The White House Office of Records
Management.

Now, I know the DOJ also gives guidelines at the
beginning of an administration and support, if necessary, to
the records management. Are they involved in that throughout
the process, or is it only for the guidelines at the
beginning?

MR. BOSANKO: I am not aware of them having any
involvement at all, other than perhaps I think what you are
referring to is maybe initial guidance on --

MS. PLASKETT: The initial guidance on how to comply
with PRA.

MR. BOSANKO: So I am not aware of DOJ doing that. I
know our counsel meets with the White House counsel's office
to help them understand. But I am not aware of any DOJ
involvement.

MS. PLASKETT: Okay. And then with no DOJ involvement
in that, the next time that the Department of Justice would
be involved is at the end, if necessary, if there is a
referral from an inspector general, et cetera, to do an
investigation or to enforce conditions of the Presidential
Records Act, correct?

MR. BOSANKO: Correct. I am not aware of any other
instance where the Department of Justice has gotten involved
in this.

MS. PLASKETT: And do you think that there is a
mechanism that could be created for there to be a list, as
Ms. Houlahan suggested, of documents as they are being
generated, which are then transferred to the National Archives for you all to kind of have a checklist, right, at the end of an administration of we should receive this, we should receive that, et cetera?

MR. BOSANKO: So from a technological perspective, I think the ability is there. I think it could be very helpful.

I would say the National Archives is not resourced in a way where --

MS. PLASKETT: Sure.

MR. BOSANKO: -- we would be able to check off against a list after we receive it. It takes us 5 years to get ready for FOIA, and we inevitably have a backlog at that point.

MS. PLASKETT: And do I understand from the other questions, from Ms. Stefanik, that while this is done at the Presidential level, there is not the same mechanism at the Vice President's level or below that for review and the kind of checking that is done at the Presidential level?

MR. BOSANKO: It is my understanding that they have a process.

MS. PLASKETT: Who is "they"?

MR. BOSANKO: The Vice President's office --

MS. PLASKETT: Okay.

MR. BOSANKO: -- would have their own training, their own sort of managing of their own records. But they still
have to comply with the same requirements of the Presidential Records Act.

MS. PLASKETT: All right. And then as to Mr. Gomez's questions regarding the discussion, if you would, back and forth between your offices and the former President's counsel, for the most part those were amicable, just emails, communications requesting we understand that these documents are there.

Was there a reticence in returning those to you, or were you simply working out the process by which they would be returned?

MR. BOSANKO: The process took an extended period of time. It took almost a year. And I think it is my recollection that we did state that at a certain point we are going to have to involve the Department of Justice.

MS. PLASKETT: Okay. And meaning a year before you first reached out and them actually returning, giving the boxes to you, it took almost a year.

MR. BOSANKO: Roughly, yes.

MS. PLASKETT: And you stated that you knew that the President did not pack the boxes. Is that because you were told the President did not do that, or is that an assumption of yours?

MR. BOSANKO: So I, to be clear, I did not say whether or not the President had packed them or not.
MS. PLASKETT: Oh, correct. That is correct. My colleague said that.

MR. BOSANKO: But what I said is I didn't believe that the boxes we received were in the same form that they would have left the White House.

MS. PLASKETT: Okay. Thank you.

I yield back.

THE CHAIRMAN: Very good.

Okay. Our last two, unless somebody else walks in the room, is Hill, Gottheimer.

Mr. Hill.

MR. HILL: Thank you, Mr. Chairman.

So I am a former commissioned officer of the White House, and I was there at noon on January 20. So I spent 6 weeks packing up boxes.

So the safe in my office was emptied out into a classified box, and the classified box had the red -- the box looked like this. So that is the same process now?

MR. BOSANKO: Yes, sir. And that is the way it is supposed to work.

MR. HILL: Yeah. So, I mean, it is just not complicated, and the lowest Schedule C employee knows this in the White House staff. So that is point one.

However, we learned from Secretary Clinton that we send a lot of confidential and classified information by email.
now. So were any of the documents you think, to your knowledge, were essentially printed out that were in a sort of classified but from an electronic source that you found at Mr. Trump's residence as opposed to clearly a paper memo that was classified and distributed in a meeting or whatever?

MR. BOSANKO: The vast majority would have been hard copy paper.

But to go back to your point about -- you described the perfect scenario, the way it is supposed to work. Most of the instances, the 80 that Mark referenced and the 3 we are dealing with now, it appears that classified were inadvertently -- presumably inadvertently commingled with unclassified documents prior to packing. So when somebody unpacks -- or the unclassified area it was classified in.

MR. HILL: Yeah, well, again, I am just arguing that is pretty tough under the rules I operated under in the White House where each document was logged out of the safe and logged back into the safe at night, every night. It is just not sitting around in a file, it is never sitting around on a desk. Is that still the procedure?

MR. BOSANKO: I will tell you that -- so every PRA administration from Reagan forward we have found classified information in unclassified boxes.

MR. HILL: Boxes. Yeah.

MR. BOSANKO: But that -- they were in our custody.
MR. HILL: Yeah.

MR. BOSANKO: We move everything as TS/SCI. So that is one of the reasons DOD comes in, when we get them all read in, into the process, not read into the programs. Wrong choice of words.

But we are using, even for the unclassified materials, we are using people that at least have a secret clearance.

MR. HILL: Got it. So that is because humans are involved and so humans make mistake and we have a lot of stuff classified.

Where is Mr. Trump's NARA warehouse? Where are his materials? Is it in Florida?

MR. BOSANKO: He doesn't -- so this is a really good question because it is a common misperception.

Each President does not get a facility. So the classified materials from the Trump administration are stored in a Washington, D.C., facility.

Prior to President Obama, Presidents were building Presidential libraries under the Presidential Libraries Act, and it would include storage space to include for the classified.

Congress increased the endowment requirements to almost a 60 percent endowment when they would donate that building. And so starting with President Obama, there was a decision to not build a facility. President Trump hasn't made a
decision. And as far as the National Archives is concerned, we don't want to continue that model.

I am current -- I have currently started a process to bring all the classified from the Presidential libraries to the Washington, D.C., area. It is better from a safeguarding perspective. It is more efficient and effective for declassification. So building SCIFs all over the United States is not a sustainable model for us.

So he has no -- there is no Trump facility, if you will.

MR. HILL: Well that makes sense.

I yield back, Mr. Chairman.

THE CHAIRMAN: Mr. Gottheimer.

MR. GOTTHEIMER: Thank you, Mr. Chairman.

And following up on what the ranking member and the chairman questioned earlier, I am mostly interested in the process of when -- and I also, like Mr. Hill, was a commissioned officer in the White House and was in the White House on the last day of the Clinton administration. And I think, like all of these transitions, it is a bit mayhem. I don't know what yours was like, but it is a lot. You know, you have a lot of people coming and going, people who are leaving, getting new jobs, and a lot of people have left already.

So whoever is left is trying to do their best to pack. I remember receiving boxes a couple of weeks before to pack
up. But there are a thousand things going on.

And one question I have and one process area, and Mr. Himes sort of alluded to this a bit, I think it is probably impossible to have enough of your folks around. And you can't be in every office, right? So it would be difficult to be there for the packing for staff.

But from the President's perspective, and this is, it seems like it would be a challenge, but I assume Presidents can pick stuff up at night out of the Oval and they walk upstairs or their aides grab something and walk upstairs.

And it is not someone like from the Archives is going to run behind: Mr. President, Mr. President, you took something that was in your folder.

And I remember the staff -- I know the staff secretary tracks with NSC a lot of this paper that would go with the President or was on the President's desk, I assume, and then suddenly it is gone. So there must be a record of something that was sent to the Oval and then didn't come back to Staff Sec or through NSC. I assume that there is a -- there can be a gap there.

And then do you get -- does anybody get an alert that, hey, what we sent up didn't come back down, even if it was 2 months later, so you would know that it probably went upstairs? And at that point no one is running up to the residence and saying -- and rummaging through his desk and
trying to grab paper back, right? I mean, that is the challenge we have here.

MR. BOSANKO: So I am not privy to the actual tracking that is done within the White House, but I think you have hit upon a key issue here, which is essentially open storage.

We don't typically -- and this is bigger than the White House. This is a problem at the Secretary level and others, when you have essentially a suite that is treated as open storage and the person that is administering that, whether it is SecDef, SecState, President, Vice President, their job isn't exclusively what would typically happen within a SCIF. They are doing lots of other things. So the flow in and out is much larger than the classified.

And so this commingling that has been happening is part of the problem.

MR. GOTTHEIMER: Right, because there are red folders -- I remember there are red folders, blue folders.

MR. BOSANKO: Orange.

MR. GOTTHEIMER: Orange folders.

MR. BOSANKO: Right.

MR. GOTTHEIMER: So the President, on the President's desk, I remember Betty Currie might have on her desk three red folders, the President's secretary, bring it in to the President. It sits on his desk. I would walk into the Oval Office on a meeting about something that is unclassified, and
there would be stuff sitting there.

MR. BOSANKO: Prior to the sort of instant three, the most common place that things went awry were trip folders. The trip details might be classified for the duration of the trip but everybody knows when they come back it is not. But in the meantime somebody got a classified bio on an official they were going to meet with. It is tucked inside the binder. They come back, the binder.

But as far as you have to expect a President, a Vice President to not just work in the Oval but, as you said, in the residence. And then how -- whether or not records management extends into that location or to other facilities that they use around the country, whether, you know --

MR. GOTTHEIMER: Right, their personal, their home somewhere.

MR. BOSANKO: Exactly.

MR. GOTTHEIMER: And then they pack -- I remember President Clinton at the end, and other Presidents, I am sure, they pack their own stuff, right? I mean, it is not just -- they throw things in boxes and what they want to bring back to their lives. And so stuff that could be sitting there could easily get thrown in a box, right?

MR. BOSANKO: Yes, sir.

MR. GOTTHEIMER: And so there is no process right now to deal with the -- it seems like the big gap here is what gets
to the Oval and then upstairs or does it get back.

And does somebody have the authority to run up to the
President, to Jim's point, Mr. Himes' point, to run up and
say: Mr. President, it seems like you have these seven
documents in the residence with you because we can't figure
out where they would be otherwise. Can we please have them
back?

That seems to be a gap that nobody wants to probably
have that conversation, right?

MR. BOSANKO: Right. Yeah. It is do they have the
authority and then will they exercise it.

MR. GOTTHEIMER: Yield back. Thank you.

THE CHAIRMAN: Jay -- Ms. Spanberger is next.

Before we end, because we are going to have to run for
votes, you made a statement that in every administration
since Reagan that you have found documents commingled that
are classified and nonclassified.

Can we have that not on a classified basis to take with
us?

MR. BOSANKO: Yes. Absolutely.

THE CHAIRMAN: Great. So we have got one for Mark and
one for you. That is perfect.

Ms. Spanberger.

MS. SPANBERGER: Thank you so much.

Thank you for this hearing. Thank you for the
tremendous information that you have provided.

I have a couple of disconnected question that are
follow-up on some of the things that my colleagues have said.

As I understand from what you have said today, a lot of
this comes down to what a President wants to do, the way a
President handles things. If a President said, "I want to
have someone from NARA in my office to make sure that from
day one we are keeping" -- I thought your comment, if a
President wanted -- records management is always -- often a
last thought.

If a President wanted someone in the White House or kind
of from day one or early in the administration, that is just
something that they could operationalize, would that help
potentially mitigate some of the issues? Although you then
get what Mr. Gottheimer was talking about, presumably.

MR. BOSANKO: I think it would and it wouldn't be out of
the ordinary. For example, the diarist is a NARA employee.
And if we were asked, we would be there.

MS. SPANBERGER: Okay. And what sort of briefing does
or doesn't exist, to your knowledge, for new White House
staff members to understand classified information that might
come across in these various different folders that they
might see but not either have access to or might be holding
and moving but not necessarily allowed to look at?

MR. BOSANKO: So, in theory, everybody should get
training, not just initially but annual refresher training.

Mark made reference to ISOO recently stepping up and
providing some during some prior administrations. My
predecessor and director of ISOO and I went up and did
training because there had been some problems.

So that is about all I can speak to as far as what kind
of --

MS. SPANBERGER: Okay.

MR. BOSANKO: There is initial training that is required
under the executive order and the directive, and there is
annual refresher training.

MS. SPANBERGER: But I would argue -- and I think this
is a weakness in Congress as well -- so I would argue that if
it were regular, incredibly good, that that would be a very
easy question for you to answer, which I mean no offense by.

MR. BOSANKO: And I wouldn't disagree with a need for
greater education and training.

MS. SPANBERGER: Okay.

MR. BRADLEY: Congresswoman, original classification
authorities like myself are required to go through annual
training once a year or your clearance can be revoked. And
so it is supposed to be -- I mean, it exists.

MS. SPANBERGER: But under the President's purview,
those things can be different.

MR. BRADLEY: Yes.
MS. SPANBERGER: And kind of going back to the various
different documents that you found, certainly we have talked
about some that have been labeled and some that haven't, and
it says TS/SCI/HCS, et cetera. But right here before us we
have the CIA budget. It is on a piece of paper that is
labeled clearly as a classified piece of information. But if
I were to just write down those numbers, tuck it in my
pocket, it is not labeled but it is still classified.

The documents that you found, would you say the majority
are actually labeled and easy for relatively any person to
recognize they are classified? Or are some of them you have
to maybe know that this information is classified because it
has been transcribed or written down or parts of notes?

MR. BOSANKO: The vast majority were clearly and
unequivocally marked.

MS. SPANBERGER: Oh, okay. Thank you for that
clarification.

And I think there has been a variety of different things
that we could move forward on, but you mentioned that you
move everything as though it is TS/SCI. Given that this is
such a consistent challenge --

MR. BOSANKO: And that is a point of frustration, not a
point of pride.

MS. SPANBERGER: Yeah, because that limits who can
handle those documents and you have to contend with those
documents in such a way, even though presumably the vast
majority are indeed not classified.

MR. BOSANKO: Right.

MS. SPANBERGER: If someone wanted it -- and I recognize
the position you are in based on some of your earlier
comments -- but if a Presidential administration said there
is clearly something that is not working, NARA shouldn't have
to be transmitting or moving documents in a TS/SCI posture,
what do we need? Is your organization able to kind of put
forth really concrete, based on the things you have seen,
recommendations to how to improve upon a system that clearly
isn't working?

MR. BOSANKO: I think we would want to explore the
systems that are in place a little bit more. But I think
absolutely, yes, we could.

MS. SPANBERGER: Some best practices. Because,
presumably, an administration that wants to do the right
thing, they arrive at the White House day one, they have got
a laundry list of items to do, records management, and
presumably for some people it is thinking about a
Presidential library when there is the signed note from the
prior President to the new President, as opposed to
classified documents along the way that get mixed in.

MR. BOSANKO: It is the historical record. And it is
their legacy, too.
MS. SPANBERGER: Yeah. Interesting.

Okay. Thank you so much.

I yield back.

THE CHAIRMAN: I do have one follow-up question, but, first, I want to thank you guys. You have answered incredibly well all the questions of the members. Our members have done a great job.

As you can see, we are all struggling to try to figure out how does this even work, because this is not even -- this is behind-the-curtain stuff, right? We have never really thought about it. So you are getting our raw questions.

Jay, I want to follow up on something that you had said. There was a series of questions about the emailing back and forth and that in the year time period before you got documents from the Trump legal team.

You said that there were specific documents that you are pursuing, and then when you got the box that you opened it and it was clear that there were classified documents in there.

What I was unclear of is, during that period, before the box shows up, did they give you any indication that -- which I think your answer is no, which is why I am asking -- that classified documents were on their way to you?

MR. BOSANKO: None. Zero.

THE CHAIRMAN: That is what I thought. Thank you very
much.

With that, if there are no other questions for anybody, we will be adjourned.

[Whereupon, at 10:30 a.m., the committee was adjourned.]