

FULL DISCLOSURE Transcript

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DUTTON: Thank you so much for joining us for our seventh Critical Issues executive luncheon and buffet. We're so glad you could join us. So if you have been here before, you're all long-time friends of Full Disclosure, and rather than go through a talk about how important you are to Full Disclosure we've made out a guest list. So you will all know exactly what we think of you. You're very important people that keep us going and bringing us all together. There's one really important thread that brings us all together and that's why Full Disclosure was founded in the beginning and continues on, it's the rule of law, and what's happening to the rule of law in our communities, in our state, in our nation. In Santa Monica it was the fact that the authorities were simply ignoring a really dangerous public safety threat to the elderly and to the people who are most vulnerable. By not enforcing the law they were making it very dangerous. And we found that the way to deal with that as not being elected officials, being just citizens was to expose that, and to shine the light on it so that the authorities that should be doing their job would know that we're watching. And you know, it worked. It really did work. But it's not something that is solved after doing it once. You have to be vigilant and you have to continue on and on. And here we are 25 years later still shining the light. Our guest today is shining the light on something so important. It's something that was so important 10 years ago that Full Disclosure took the time to travel across the country to interview every attorney general, U.S. Attorney General, and Federal Prosecutor

and Independent Counsel that had been involved in presidential investigations. We were out to discover how America investigates the presidency. And here we are, 25 years later, on the precipice of something that we don't know what's going to happen. But thank goodness for our guest today who's shining the light, is going to add a lot to what we have already done in finding out how the prosecutors and the Attorney Generals perceive themselves, and their responsibility, and their authority. The reason we started the Critical Issues forums was because we realized that the history that we had recorded over the 25 years with elected officials, appointed officials, citizens, civic leaders had a great deal of value to people today. And yet, all these years have passed, it was in danger of deteriorating. And you've heard this before from some other people about the necessity to preserve history, well this is really true in our case. So thanks to the wonderful people we have that's been helping us over the years like Eric Tassill who was with the Armed Forces Radio Television Service for many years before he retired. And pointed out to us the way that we could go about preserving what we have. And that is why we're having these luncheon meetings to bring together the people from over the years that have helped, who have been on the program. And we really consider you, those who have been part of this all along, you are the Full Disclosure Network by participating, by supporting us. And we value greatly the recognition that we received with our Emmy because let me tell you, in the world of Los Angeles media, it's

pretty dangerous out there. And as we learned, even with an Emmy they couldn't wait to get rid of us. But we're still here. And we know the value of you only lose when you quit. And we're not going to quit. And we look at this as an opportunity. What Paul is doing and what Judicial Watch is doing is a wonderful public service. And that we see this as an opportunity to incorporate it with a history that we have so that America will know exactly how we got to where we are today. We haven't stopped production by any means, even though we moved to this new facility and now our studio doubles as a banquet hall. We sometimes have to switch our path to raise the money to continue what we're doing. But the productions that are going on now are at a different level. Nothing that we've ever had the wonderful opportunity to do because of our grassroots orientation. It was one of our former guests that introduced us to a gentleman who was responsible for changing the skyline in Los Angeles. He constructs all the big business and towers. And he has a plan to stop traffic gridlock in Los Angeles. And what a noble cause he has. And so we really decided that this is something we've got to stop our fundraising for the moment and cover this. So we interviewed Mr. James A. Thomas, at length, about the project that he's going to stop traffic gridlock. And then we asked him to come here and be our guest speaker. And so as we've gotten into it we've found just like every other issue there's very good reasons why nothing ever happens. And so this is going to be a much bigger story than we ever imagined. And I don't know whether we're ever going to be able to stop traffic gridlock but we're sure as heck going to know what causes it. Anyway, I'll share this story with you. This is really funny. You'll

get a good chuckle. Our Mayor is in Rio right now. You know what he's doing? He's convincing the Olympic Committee to hold the Olympics four years from now in Los Angeles. And one of the main reasons he says that they should give it to Los Angeles is because we have such a wonderful mass transit system. Now we know that it cost \$9 million to build six miles from inland to Santa Monica. What an accomplishment. I mean this is really something. Now we're told it takes an hour and a half to get from Santa Monica to Los Angeles. How many of you would like to do that? But even worse, just recently in the news these rail projects are threatened. You should be concerned. They're going to stop the bullet train. They're going to stop these republic rail systems that are going to move us around so quickly. And do you know why? Well it seems as though they were counting on the carbon credit fees to finance these rail systems and now these hundreds of millions of dollars have disappeared. Why? Because the people who would have bought the carbon credits are not buying them because they're obeying the regulations that government imposed. So their plan was working but now they're really in big trouble because they're not going to get any funds. So don't hold your breath. I just want to say that because Paul is going to talk to us about something so important we wanted to take this time to show you the preview that we prepared over 10 years ago of the Prosecutor and the Presidency. You will be able to see for yourself the challenge that we have because the quality isn't nearly as good as our new productions are. But we have all of the original tape and we have all of the original recordings that we can work with to restore and make it just as good. So I'd like to show you this short preview to

give you an idea of the detail and intensity with which we approached all the interviews with the Attorney Generals and give you an idea of what happened there. So if you would roll it, we'll move away from the screen.

DUTTON: This brings us to our guest speaker today. Paul Orfanedes is a very good friend of Full Disclosure. We have worked with him over the years. He comes to our set and sits down and explains to us what's going on. And he has helped us in our time of need when we found that we had legal problems. He stepped forward. And he's had some great success at opening the doors that were barred to us and making the process work properly. He is the Treasurer and the Secretary, and one of the founding board members of Judicial Watch. What year was it founded?

ORFANEDES: 1994.

DUTTON: 1994. Gosh, you must have been 16 then. He has been a real guiding light for us. And here he is today to tell us about his experience with trying to get the public information about what's going on in our government. And at a time when it is so crucial it's just – I know that probably you didn't even realize it at the time but it's really important to know what's going on. So without further ado, I'll turn the podium over to Paul Orfanedes.

ORFANEDES: Oh thank you. As Leslie said, we've worked together for a number of years over a lot of really interesting projects. And it's remarkable to me just listening to her comments how complimentary Judicial Watch's mission is with Full Disclosure Network. One of our taglines is we seek to

promote integrity, transparency, and accountability, and fidelity to the rule of law. So we are fundamentally a rule of law organization and trying to promote rule of law. And one way we do that is through transparency. And transparency primarily in the federal context is the Freedom of Information Act. We file thousands of FOIA requests a year, and litigate hundreds of those requests. So I'm here today to talk about our experience dealing with FOIA requests to the State Department that implicated Secretary Clinton's emails and FOIA requests about the Secretary's emails. Let me fire up this. Handed out to you were these little pamphlets. These pamphlets primarily are documents that we obtained through FOIA, through discovery in one of our lawsuits. Judge Sullivan in one of our lawsuits, federal judge in the District of Columbia authorized us to take discovery into whether the State Department authorized Secretary Clinton to use this private email server that she had, and what efforts they used to preserve those records, to regain those records when the Secretary left office with all of them. So that's what some of these records are. They will parallel the slides that I will go through. In case anyone has trouble seeing the screens I wanted to be sure that you had these documents in front of you so could actually look at them up close. These are, with the exception of the first page, they are actual documents that we obtained from the State Department through discovery or through Freedom of Information Act. So let me begin.

(Talking off camera)

ORFANEDES: There she is. A famous photo. I thought I'd include that just 'cause

I'm sure everyone's seen that before. But it's a good one. Key dates in the Clinton email matter. I'll start on the bottom because the bottom is when Judicial Watch and the rest of the world, other than the State Department and thousands of State Department officials and other U.S. government officials, when we learned that Mrs. Clinton had this private email server that she used for all her official email communications. This is an article that came out in the March 2, 2015 *New York Times*. Our immediate reaction was how has this impacted our past FOIA cases, our present FOIA cases, and what more FOIA work can we do to find out what was going on about this. So what we did is, like I say, we do thousands of FOIA requests. We have hundreds of FOIA lawsuits. We went back to our old requests, back through all our old lawsuits. We actually reopened several of those lawsuits just to find out what impact that the Secretary's use of this private server had. We had any number of cases where the State Department said, "Well we searched the Office of the Secretary in response to your request and here are, you know, a handful of records that we found." At no point did they tell us, "Well the Secretary had this private server and a lot of the records you requested would be on that." They never told us that. We had to learn about it through the *New York Times*. They didn't tell us. They didn't tell any judges. They didn't tell the court. So I mean really that in itself, in my view, is an obstruction of justice. Several judges allowed us to go back and reopen closed cases precisely in order to investigate how this happened. And the primary case, I don't know if you hear about it in the news is a case we have in front of Judge Sullivan, in that case we're trying to – the FOIA request issued in that

case was to try and understand how Mrs. Clinton's top aide got special permission to work both for the Clinton Foundation and Teneo Corporation while being a State Department employee. That person was Huma Abedin. She's in the news a lot. She's also Anthony Weiner's wife. Okay, so everybody knows her. When Anthony Weiner started having his difficulties, Huma Abedin needed money so that's when she got work at the Clinton Foundation and the Teneo Corporation. So getting back to the email saga itself, January 13, 2009, Mrs. Clinton nominated to be Secretary of State. She knows she's going to be confirmed. A top aide to President Clinton, a gentleman named Justin Cooper registers this domain name "Clintonemail.com". So that's the first indication that there was some hint that this account was going to be used. That's the same day her Senate confirmation hearings begin. So clearly she's thinking about how she's going to communicate; that can't be a coincidence. The server that is used to house this clintonemail.com comes from her Presidential campaign because if you remember she had run for President in 2008, lost. President Obama nominated her to be Secretary of State. So this is computer equipment coming from the campaign, put in her basement, the basement of her home in Chappaqua, New York. The domain name is registered. She's confirmed as Secretary of State on January 21, 2009. Now interestingly she has given any number of explanations about her use of the server. And she's consistently said that she didn't use it until March 18, 2009. That might be fine. Take a look at – actually I'll skip. This is on Page 3 of your brochures. This is the first email that has been produced to us from Mrs. Clinton's server. H, you'll see up at the top is the email address, HDR22, that's her

email address she uses. Whenever you see H or whenever you see HDR22 that's Mrs. Clinton. This is an email to Huma Abedin. January 30, 2009. What's wrong with this picture? That's obviously a month and a half at least before March 18th. We don't know where they came up with the March 18th date. We don't know why. We don't know where all those records are from late January when she became Secretary of State until March 18th. So that's still an unknown. But, you know, the bottom line is her public assertions about March 18th being the first date she uses it are demonstrably false as proven by this particular email. I'll go to the prior document. This is on Page 2. This is a Secretary Residential Installation Hotwash. When Mrs. Clinton became Secretary of State the State Department sent diplomatic security service personnel up to her house to survey – to check it out for security reasons. One of the things they found was the server in the basement. This whole document is kind of fun if you want to look at it on Page 2. I don't have slides for it. But one of the things they did was they told President Clinton to turn off his Bluetooth. He has one of these ear things for his phone. He's apparently walking around his house. They're saying, "No, no. Anybody can pick that up. You don't want to be doing that." So some of these things are fun. There's some fun details in here. But anyway, the State Department clearly knew that she had this server. They clearly know and it will become clearer that she was going to use this server for her communications. There's really no denying that the State Department as an entity was well versed in the fact that she was using the system. January 24, 2009, Mrs. Clinton only uses a Blackberry. And there's a lot of discussion about how she's going to use her email communications.

Again, this just shows she doesn't know how to use a computer. So she only uses a Blackberry. She sits on her desk like the photo and she types on the little buttons. But in any event, early January of 2009 and they're already talking about, you know, her use of this email system, why – they're planning for it. So they're clearly – the State Department as an organization is well aware of it. They're planning for her use of it. This is further document, they're looking – they spend a lot of time, energy, effort trying to figure out how the Secretary can use her email. This particular document is interesting – no this isn't the first FOIA one. Never mind that. There's also any number of efforts to figure out what sort of vulnerabilities these might have, what sort of security issues might arise because of Mrs. Clinton's use of email and in particular her Blackberry. They bring in the NSA. So now we've got the NSA is participating. This is another late January of 2009, they're checking with the National Security Agency into Hillary's use of a Blackberry for her email. The Secretary of State's office is on the seventh floor of the State Department. It's usually called Mahogany Row. A large part of the seventh floor is something called a SCIF which is a Sensitive Compartmentalized Information Facility. Communications in those things are very restricted. You're supposed to lock up your Blackberry in a locker before you enter a SCIF. No unauthorized electronic devices, nothing that emanates signals are allowed in SCIFs. They go to great efforts to protect SCIF, the security of it. Mrs. Clinton didn't want to do that. Here there's discussions about setting up an office outside Mahogany Row so she can go in there on a regular basis and check her email. This is some more interesting documents. This is on Page

7. Some of these things, they show the great lengths that the State Department went to to try and accommodate her. They explain here. During the campaign is when she became a Blackberry addict in effect. She was urged to keep in contact with thousands via Blackberry. She got the hang of it. She was hooked. This was the number two in the Office of Diplomatic Security within the State Department and they're discussing her proclivity to use her Blackberry for her email. So now she's feeling hamstrung because she has to lock up her Blackberry. So she can't use it in her office. She doesn't like that. There's all kinds of discussions about how they're going to solve this problem. At the same time there's also discussions about the vulnerability of this system. They're talking about having meetings to discuss and better understand the vulnerabilities, the mitigation costs of the problems with why it's not a good idea for the Secretary of State to be using email, much less a Blackberry, much less a private server. Again, this talks again, this is page 9, it talks about the vulnerabilities. One thing I think is interesting, we don't have a slide of it, take a look at page 10 which is on the bottom of this email. Take a look at all the attendees. All these people, all these eight or ten folks from the State Department, there are five people from the NSA, all these people are discussing the Secretary's email usage, her Blackberry. The State Department, in the course of litigation, the State Department says that their top personnel they didn't know she had this system. To the extent that they did know they thought she was using it only to contact friends and family. Does this sort of effort, all these people involved, all this discussion look like people don't know that she's using this email system for official

communications? Of course not. That's absurd. This is an interesting document this page 11. Eric Boswell, Head of Diplomatic Security for the State Department. This is again, the use of Blackberries on Mahogany Row. They're trying to figure out a solution to this problem so that the Secretary can feed her Blackberry addiction and email people constantly even when she's in her office. But I think the most, to me one of the most significant parts of this is this last bullet point, "I can't stress too strongly however, that any unclassified Blackberry is highly vulnerable in any setting to remotely and covertly monitor conversations, retrieving emails, exploiting calendars." Head of Diplomatic Security is effectively telling the Secretary, "Don't use email. Don't use this Blackberry." They gave her the option of having a State Department account which she could access on a computer, on a desktop that would have been secure in the same way that, you know, federal communications – the federal government goes to great lengths to secure communications. They gave her that option but she rejected it. Now she said it's because she didn't know how to use a computer. Well, you know, how difficult is it to send an email from a desktop? How difficult is it to learn that? It would have required her to have a State Department account. She didn't want that though. Anyway, I always like this. And then the next document, in case you wonder this prior document, this memo from Eric Boswell, Head of Diplomatic Security sent around it was directed to Cheryl Mills. Cheryl Mills was the top lawyer to the Secretary, so her Chief of Staff. This was discussed in a meeting. So if you have any doubts that Secretary Clinton actually received that prior memo that said don't use

your Blackberry for emailing. After this morning's management meetings with the Assistant Secretary, Clinton approached Ambassador Boswell, that's the Head of the Diplomatic Security, the author of the prior memorandum, and mentioned that she had read the information memo. So here it is an email saying the Secretary said she read the memo and that she gets it. So she's saying, she's telling the Head of Diplomatic Security she understands all these vulnerability issues. She understands why she shouldn't be using a Blackberry for email. This is early on. This is within six weeks of her becoming Secretary of State. She clearly understands. She says she understands all the security issues with her Blackberry email.

MALE: We should put you on CNN.

ORFANEDES: Again, this is I'm just talking generally about the vulnerabilities. This moving forward to January of 2011. And this is on Page 16. Threat analysis by Diplomatic Cyber Security Team. It's a little bit difficult to read. And related incident reports indicating dramatic increase since January 2011 in attempts by, and this is a redaction – the State Department wouldn't give us this information. We might have to fight about whether or not we should or shouldn't get it in court. But that's what it looks like when they black stuff out. But more importantly, to compromise the private home email accounts of senior Department officials. This was during the middle of her tenure as Secretary of State. She's been saying she's just been advised. This is a dramatic increase to compromise private email accounts, private. I mean this is a direct, Head of Diplomatic Security is sending out this memorandum for the

Secretary warning her about efforts to hack her top government officials' emails. So again, this stuff is there. These are the actual documents. It's hard to refute that there's anything but – this is kind of fun too. State Department became so concerned about cyber security issues they were going to create an office, an office of the coordinator for cyber issues. Talking about how wonderful all these technology things can be, these communications, but also to address all the security threats and vulnerabilities. So they're thinking about creating an office to address precisely these sorts of threats that the Secretary seems to be ignoring. I don't editorialize too much but what else? What other conclusion can you draw from that? So another question, how is she using this? We know she said she had about – she returned 55,000 pages of emails to the State Department. That was not the full universe of all of her email. There are some that she claimed that were private famously and destroyed. There are others, like the ones that were announced in the news yesterday, the 44. These were emails that she didn't return. We were able to get them from other sources, in this instance through Huma Abedin. But in any event, how was she using this? Here is she is – Rahm Emanuel at the time was Chief of Staff for President Obama. So he's in the White House. Rahm Emanuel is asking Hillary for her email. Hillary says, "Yes, give it to him." I just wanted to give you a sense of the people she was in communication with. This is John Kerry. At the time he was U.S. Senator, he hadn't yet become Secretary of State. David Axelrod, top political advisor to the President. Hillary was emailing we'll take care of it. Can you send me the email? Hillary, "Yes." Axelrod wants your email.

Tom Donald – now is this Tom Donnellan? Yes, this is Tom Donnellan. National Security Advisor. Again, all sorts of... Susan Rice, she was at the time the U.S. Ambassador to the U.N. Again, “Please,” she’s telling Susan Rice, “Please feel free to use my email address at any time.” John Podesta. I’m not sure if he was a government official at that time. He’s been in and out of government. He was President Clinton’s Chief of Staff for a while. He’s very involved in Secretary Clinton’s campaign right now. But again, more people she’s emailing. Steven Chu, Department of Energy. Another thing that’s really important about this is Secretary Clinton’s story is that she thought it was okay to use this private server because to the extent that she was emailing people inside the State Department those emails would be captured in those people’s email accounts. Just been through any number of people who are outside of the State Department. These would never have been captured. Nor with the 19 emails we know she exchanged with President Clinton ever have been captured because they’re outside the State Department. So any number of people outside, Strobe Talbott, he is the head of the Brookings Foundation. I guess they were in India together or something. Cherie Blair, Tony Blair’s wife, she’s a prominent activist lawyer in the UK anyway. So they’re apparently very good friends. George Mitchell, the former Senate Majority Leader. Again, “Here’s my personal email.” All of these things never would have been captured on the State Department’s email system. These are all Secretary email and private persons or persons outside the State Department on government business.

DUTTON: Did she consider these personal emails?

ORFANEDES: No she did not. This is – some of these are among those that she returned to us. So, for example, again, this is the H – that’s Hillary, HDR22. She had a team of lawyers led by Cheryl Mills and another woman named Heather Samuelson review all of her private emails at some point in the fall of 2014 before anybody knew publicly that she had this system. The State Department had asked her to return them. They gave her a heads up in the summer of 2014 saying, hey the Benghazi Committee has asked us for some documents. We’ve identified those documents. Those documents have your private email address and we’re about to give those to Trey Gowdy’s Benghazi Committee. So the State Department was concerned that this idea that Hillary had a private email account during her tenure would become public and was about to become public. So the State Department gave her a heads up. She had her lawyers whose duty of loyalty obviously is to their client, Hillary, not the State Department or the American people, review these, make a determination as to what as personal, what was not personal. We don’t know what parameters they used. We know now that they didn’t even read all of the emails. They just did keyword searches and they looked at some of the headers. So hardly a thorough job. Done not by public servants, people who are accountable to the government but by Hillary Clinton’s aides. So that’s a long way of saying, you know, yes this was determined to be a federal record by Mrs. Clinton’s lawyers. And those are the only people that made any determination as to whether or not these are public records or

not. Joe Wilson, I don't know if you remember Joe Wilson. Joe Wilson was a U.S. Ambassador. He was the guy that went to Niger and looked around for the yellow cake to see - it was in the Bush Administration era. Also married to Valerie Plame. Investigation led to Scooter Libby's prosecution and conviction. So Hillary, just checking my Gmail, you know. David Kendall, that's her private lawyer. He's been her private lawyer for ages. I just included this one because it's kind of fun. Someone had robbed a bank in Northern Virginia and they were wearing a Hillary Clinton mask. And there's a news account. David Kendall writes, "Does she have an alibi, I presume?" I just thought that was funny. You get to read someone's emails perhaps it's a little personally invasive but anyway. That one's just kind of fun. Some of these I've just captioned them as people. This is Hillary Clinton directing her staff to add all names, contacts - to add contacts to her Blackberry so that she can email them. And this is just back and forth. She wants all Under Secretaries, Assistant Secretaries, and the Special Assistants added contacts under her email. And you'll see a fair number of those if you go over here. The assistant added 40 names so she can email people on official government business. We did an analysis. We looked at the top leadership in the State Department. The State Department considers its leadership, its management to be anyone who is a Deputy Secretary, an Under Secretary, or an Assistant Secretary or similar rank to be management of the State Department. So we looked at all these emails are available on two sources, the State Department's website and now WikiLeaks. We looked at both and we compared them and we ran a tally. We identified everybody who's State

Department employee or management. We looked at all that was sent and received. Some of these quite remarkable, Cheryl Mills, 4,489 sent, 1,257 received. Bill Burns, Jack Lew. Jack Lew was - well you know who Jack Lew is now. He's Secretary of the Treasury but he was a Deputy Secretary of State. Any number of other individuals. Some didn't get any but these are the tallies. We just ran the tallies. Interesting if you'll see on here a guy named - the Chief Legal Advisor, Harold Koh. Any number of emails exchanged back and forth. The guy who's supposed to provide legal advice to the Secretary of State, they have extensive email exchanges on the Secretary's personal email account about official government business. You can read these. I didn't include them in here because some of them got kind of technical. But he's giving her legal advice through her personal server. It's just remarkable. Anyway, Secretary Clinton has repeatedly said that she did this for convenience. So that's her justification for why she did this. She said she didn't want to carry two Blackberries. She didn't want to carry a State Department device. She didn't want to carry a personal device. First of all, she had a whole entourage. Whenever she went anywhere she had, you know, a planeload of people with her. The idea that one of them couldn't carry somewhere her little Blackberry for her personal use is almost absurd. Well it is absurd. But so from that perspective the convenience issue doesn't really seem to fly. But to me, almost more importantly is this system was incredibly problematic. It was fraught with problems. We have any number of these where they're doing testing. They're sending tests to see if it's working. This is - I just want to see where we are. This top on is page 49. There's nothing else

to it. I just wanted to show you – you’ll see others, there were lots, I just picked out samples. Lots of tests going back and forth. This bottom one is on page 50. And you’ll see is her email coming back. Is her server okay? The server was broken down. This was February 2010. This is page 51. “Your email must be back. What happened? Judith sent you an email. It bounced back. She called the help desk.” This is actually pretty funny because Judith – I don’t know who Judith is but she’s a State Department employee. She’s trying to reach Hillary. She’s emailing Hillary on Hillary’s private account. It keeps bouncing back. She calls the help desk, the tech desk. The tech desk says, “Who’s this?” They had no idea it was you. This is the help desk. Just some random address they emailed. The State Department tech folks didn’t recognize that the Secretary had this account so they didn’t know how to deal with the problem. You’ll see further on they go to great efforts to try to fix some of the technological issues that was prohibiting the Secretary from communicating even with State Department people on a private server. This is from page 53. “Did you get the first you sent to your State address?” This is the personal one, again, this is just trouble back and forth. “I did not get the one you sent to my State email earlier. There must be some problem with State email filters.” We know that ended up being the case. Some of these later documents are just more of the same. A recent problem with her emails, no rhyme or reason why some go through and others do not. Again, the idea is these tremendous problems, these technology issues that were throughout her tenure and yet she claims that this was convenient.

DUTTON: Isn’t that a sign of being hacked?

ORFANEDES: No. Actually what was going on – one of the things that was going on was the State Department’s filters and spam and anti-fishing and all those weren’t recognizing the Secretary’s email address. So it was blocking them. You’ll see there’s some email further on what the State Department did is they turned off the spam filters. They lowered the security barriers so that her stuff could go through. Again, they’re saying – her story is she did this because it was convenient. I mean it was not convenient. It was a horrible system.

MALE: Is the public aware of all of this?

ORFANEDES: You know, no. Not in this degree of specificity. All these emails are up. They’re on our website. They’re on WikiLeaks. They’re on the State Department’s website.

MALE: So to my guys (inaudible)?

ORFANEDES: Absolutely. Sure. I mean this is just things that I thought were fun. I mean there are 55,000 pages is a lot. These are just stuff that I grabbed because I thought, eh, these are kind of fun. They tell a good story. This email, these are State Department contractors. So they have tech support contractors. I mean they’re affiliated with the State Department. They have State Department addresses. But they’re all trying to solve this filter problem so that the Secretary can communicate. More and more of the same. Here it is. “Turned off the anti-spam on our bridgeheads.” More tests. More tests. This

is 2012. It is just amazing. That's the only thing to say.

MALE: Brazen.

FEMALE: Yeah it is. Exactly.

ORFANEDES: This is one of my favorites. I'll see if I can find it. This is on page 65. It's kind of hard to read. Bottom line is "Kushner can do 1245." Kushner is the French Foreign Minister. And they are trying to set up a conference call between Hillary and the French Foreign Minister. The problem is they're trying to set it up by email and Hillary's email's not working. So Huma Abedin testified at her deposition, she was frustrated by this system. The system that Hillary said she used because she said it was convenient. Although her top aide said she was frustrated by it because it was preventing her from doing her job. Here's an example of it. They couldn't email each other to set up a conference call with the French Foreign Minister in time for the call to take place. So this was Hillary writing to Huma, "I emailed back yes a bit of ops." The bottom line, the last sentence, "This is not a good system." A rare moment of candor from the Secretary. This is not a good system.

MALE: I like that one.

ORFANEDES: So Huma rights – this is interesting, "We should talk about putting you on a State email or releasing your email address to the Department so you're not going to spam." So they talk about it. I mean this is 2010, midtenure, right. She's been Secretary of State for almost a year and a half. She's got another year and a half to go. But anyway, this is an email that's

gotten a lot of attention. So Huma suggesting that she go on a State Department email. She writes back, "Let's get a separate address." So she seems to have agreed, "or device, but I don't want any risk of the personal being accessible."

MALE: That's what she's really concerned about.

ORFANEDES: That's exactly.

MALE: Not classified, it's personal.

ORFANEDES: Exactly. She's not concerned about records management. She's not concerned about vulnerabilities. She's not concerned about people not being able to do their jobs because they can't communicate. She doesn't want any risk of the personal being accessible. Now we – she doesn't say personal what. She doesn't say her personal account. She doesn't only her personal emails. It's open to interpretation. We've asked the court to depose the Secretary about this sort of thing but he hasn't ruled yet. But this really one of the most interesting of the emails that we've been able to uncover.

MALE: There's the contributions to her Foundation.

ORFANEDES: You know, the emails that were being discussed in the news, the 44, I mean those are all emails. Huma Abedin, Cheryl Mills, a couple of the other top aides, they also returned records they took with them when they left. Ms. Abedin, it's 20-30,000 federal records. So in a different lawsuit, not the lawsuit in front of Judge Sullivan, we have a production scheduled. They're going through that stuff. They're

identifying what's response to our request. What's a public record.

MALE: Have there been charges for that?

ORFANEDES: I'll get to that at the end.

MALE: On page 67 it says, "...just checked and I do not have your State but not your Gmail." So this must be the Chinese.

ORFANEDES: These two are fun. This is page 66 and 67. Someone was having trouble – I mean I don't know if she's joking but Hillary writes, you know, someone – her email – Nora is another person who works in the immediate office of the Secretary. So they're having some problem. Hillary writes, "Maybe the Chinese hacked it and focused on you."

FEMALE: (Inaudible).

ORFANEDES: The next email, same thing. Must be the Chinese. So how did that happen? She doesn't know. She's joking back and forth. So I kind of – I see these as a bit lighthearted. These other ones are a bit more troubling. Here we have Justin Cooper, this is January 2011, remember that other memo where the Head of Diplomatic Security said be careful out there. There's a concerted effort to hack the email accounts, the personal email accounts of top. Well, Justin Cooper, "I had to shut her server down. Someone was trying to hack us." I mean Justin Cooper was a guy who works for President Clinton in his office and he's sort of overseeing the server, along with Bryan Pagliano which we don't really need to talk about him. But he's been in the news quite a bit. So I mean this is Justin Cooper again, "We were attacked again. So I had to

shut it down for a few minutes. It should be working now." I mean this was a direct indication that at least the server was hacked. We don't know about whether her personal email on the server was hacked. But it would appear that Justin Cooper is telling Huma and Doug Band, whose name has been in the news, "I had to shut the server down because we're being attacked. We're being hacked." This one Huma Abedin to Jack Sullivan and Cheryl Mills, two top aides, don't email HRC anything sensitive. I can explain more in person. This is when the hacking went on. So Director Comey said there was no evidence of hacking. Let's move on to one of the things we're trying to explore in our discovery in the court, case in front of Judge Sullivan is to what extent was the State Department aware of – or the Secretary aware of her FOIA obligations? We think it's pretty obvious that she did but she had at least two reminders. This is around the time they're discussing, again, putting her on the State Department email account. This is from page 72. This is an email from Stephen Mull to Cheryl Mills. Stephen Mull is the head of the Office of the Executive Secretary. So he's sort of the chief record keeper for the immediate office of the Secretary and all the top brass at the State Department. And they're trying to figure out what to do. They keep having these problems. Should they put her on a State Department account? He writes to her separately. "We're working to provide the Secretary, per her request, a Department issued Blackberry to replace her personal unit which is malfunctioning, possibly because her personal email server is down again." So they keep having technical versions. "We'll prepare two versions for her to use. One with an operating State

Department email account which would mask her identity but which would be subject to FOIA requests. And another which would just have phone and internet.” So they’re telling Cheryl. Who knew this? Cheryl Mills is a very, very smart operative. We’ve had any number of interactions with her concerning email issues. I don’t know to what extent I want to get into this but back in the ‘90s we were in litigation with the Clinton White House over FBI files. And there was an issue with their responses to documents – the White House’s response to document requests. Some whistleblowers came to us and said, “Well there’s an email server that’s not being record managed. It’s not hooked up in the way it should be.” So anytime that the White House is searching for records in response to a document request subpoena like Ken Starr had served, records request from Congress like which there were multiple, that server wasn’t being searched. The point person on solving this problem as Cheryl Mills. She was very familiar with emails. There’s no doubt that she’s aware of all these problems. She’s aware of her FOIA obligations. But in any event, here we have the head of the Executive Secretary of the Clintons saying, “We can give you a State Department email Blackberry. It will have a State Department account but it’s going to be subject to FOIA.” So let’s read up the chain a bit. Cheryl writes back, actually maybe that’s Huma. Huma writes back, “Let’s discuss the Blackberry. Doesn’t make a whole lot of sense.” Anyway. They knew what was going on. The same context, this is within minutes on page 73. One of Secretary’s assistants, Monica Handly, is talking about if we have a State Department email address for the Secretary what would her email address be? And she sends this to John

Bentel. Bentel is the guy who is responsible for technology within the Executive Secretary. So technology issues for the Secretary, the Assistant Secretary, the Deputy Secretaries. So he’s not a records manager. He’s a technology – an equipment guy. He writes, “You should be aware that any email would go through the State Department’s infrastructure and be subject to FOIA searches.” Alright. Does it happen? No. This is 2011. So she’s got another two years left. So all these issues, and yet this is almost convenient. She was repeatedly warned of vulnerabilities. She was warned of lack of transparency. This is another email on page 74. It’s just to show this is a private email that Cheryl Mills sends out from her private email address. So if you email Cheryl she has an out of office response on her private email address. And in that is, “As a reminder, government emails maintained as federal records.” So she’s saying, “Look I’m out of the office. I’m away on travel,” because she traveled a lot with the Secretary, “if you want to reach me you can try working my State Department email address. But as a reminder, all that is going to be a federal record and it’s going to be subject to FOIA.” So she was well aware of FOIA obligations. Just a few more. June 2011 the Secretary of State sends out a memo to all diplomatic and councilor posts collective. It’s routine but the subject is securing personal email accounts. Down on point d, it’s a little bit hard to read because it’s way down on the bottom of the page. But her advice to everyone is to avoid conducting official Department business from your personal email accounts. February 2011, someone sends the Secretary what they think is a really interesting analysis of Libya. A gentleman named Godfried. And they say,

you know, this is worth your trouble reading. Her response – I’m surprised that he used a personal email account if he’s at State. Just a few more. Secretary Clinton leaves office February 1, 2013. Patrick Kennedy is the Undersecretary for Management. So he is the top person at the State Department for all management. And he is emailing her three days before she leaves office on her personal account. What’s up with that? Right? How did he think this email was ever going to be captured, records managed, produced if anyone asked for it? When we deposed him he had no answer. At first at his deposition he denied even knowing that she has a personal email account that she was using to conduct business. When we showed him this and some of the others, he said, “Oh, well when you asked him that question I thought did she use it a lot.” Anyway, a couple of other interesting little things. This is an excerpt from an Inspector General report. We’re still curious to see why so many people at the State Department were exchanging email with the Secretary on her personal server and yet the people responsible for records management didn’t seem to know anything about it. There’s a guy named Charles Finny who has overall responsibility for like keeping the Secretary’s papers together, and papers obviously include not just paper but communications, any kind of communications. And the stuff they keep is – I mean they go to great lengths to save menus from dinners. I mean those are very important. They have to keep those. And yet, you know, he didn’t seem to know anything about the email. So we were wondering why. Well the Inspector General they had a little bit more access, a lot more access than we did. We only had the

opportunity to depose people that the court would give us the opportunity to depose. But they talked to persons, you know, staff members and at least two staff members had said that they discussed it and they went to Mr. Bentel, the tech guy that I talked about a little bit before, and they say he told them it’s been cleared at the highest levels. Don’t ever talk about it again. So is there an effort to stifle any discussion at the State Department about this use? You know, we have asked the court for leave to depose this gentleman, Mr. Bentel, who’s alleged to have said this. The court hasn’t ruled yet. Just a few more. The court asked the State Department to have Secretary Clinton sign a declaration about her emails. This is that declaration. There’s a lot of hedge word in there. I’m sure it was written by David Kendall, not by – but I just thought it was sort of interesting to see it. She’s saying that she’s directed that all of her emails and her custody be provided to the State Department. She doesn’t know that it’s been done but she says she believes it’s been done. And that approximately 55,000 pages were produced on December 5, 2014. I mean that’s remarkable. December 5, 2014 nobody knew about this until the *New York Times* reported it in March of the next year. So the State Department had these records. They were making representations to us about the sufficiency of their searches in response to our records request. They knew we didn’t know about this and yet they’re saying, “Well we searched the Secretary’s office. Here’s what we have.” So finally, this is an interesting federal statute. This is 18 USC 2071: Whoever willfully, unlawfully conceals, removes, mutilates, destroys records shall be fined under this title or imprisoned not more than three years or both. That’s subsection A. Subsection B,

the interesting part, if you're a custodian of a record, so if it's your record, if it's on your computer, you know, you're the custodian. "If you conceal, remove, mutilate, destroy," look what it says, "imprisoned for not more than three years, and shall forfeit his office and be disqualified from holding any office under the United States."

MALE: Lock her up.

ORFANEDES: Nah, I'm focusing on shall be disqualified from holding office. Anyway, there she is. Any questions. These are some I thought they were fun.

MALE: If the Department of Justice refuses to proceed on the case, says there's no indictable offense there, aren't you done? What procedure can you use to actually go ahead and try or even indict her?

MALE: How about the court of public opinion?

ORFANEDES: Well there is that. Director Comey's investigation only dealt with the classified information component of it. It did not deal with the components that deal with destruction, removing, concealing federal records. You know, if you remember Sandy Berger. Right, he hid federal records in his socks and left the archives. And he was prosecuted for that. So people are prosecuted for that type of violation. Director Comey wasn't charged with looking at that. Didn't look at it. The point being his statement and Loretta Lynch's statement that there's not going to be any prosecution as a result of the Director's investigation doesn't cover this.

MALE: (Inaudible).

ORFANEDES: I don't know. I mean I would guess it's years. I wouldn't think it had run yet.

MALE: So if there were some (inaudible) Republican administration...?

ORFANEDES: You know, that's pretty - I don't expect to see any prosecutions here. You know, I don't. I think all we can do is we have the tools that are available to us. You know, we have FOIA, we have courts that are interested. We've asked multiple courts to allow us discovery. I mean this is just to sort of root out information and get it out to the people so they can decide what it means. So that's what we do.

FEMALE: You've made a wonderful case and we're all appalled sitting here. But we're probably all of like minds generally in this room. Could this be condensed in some way? This is public information right now. Right?

ORFANEDES: Absolutely.

FEMALE: Could it be condensed in any way and given, for instance, to the people advising Trump and he make an issue of it? I mean I know I'm saying I don't know how Trump would use it. But it seems to me a lot of time spent on this and how can it be used to preserve our country and with this election? Delay. Delay. Delay is not to our advantage.

MALE: I would give this to Dinesh Dsouza.

FEMALE: Well Dinesh is *Hillary's America* he's done already.

MALE: But he doesn't have this.

FEMALE: No.

ORFANEDES: We're a c3, you know. We report you decide sort of.

FEMALE: Well if I got this to a John Bolton or whoever, let's say, John Ashbury who's head of policy for Trump, if I handed it to him, okay. My feeling is that Judicial Watch does – what's happening in the recent 48-72 hours is exciting. But what comes of it in a practical way that can preserve the America we want? And this is just overwhelming proving her lies.

MALE: Wendy, can I suggest that this be put into three to five-minute video?

FEMALE: Well that's what I was going to say. Condensed because the public doesn't have the intelligence to sit that long.

MALE: If this can all be put on the website.

(Talking in side conversations)

MALE: Then a three to five-minute video could be made of this, you know, with footnotes that people could get the facts of a particular website, see it all.

FEMALE: And that's enough distance from you legally as a 501c3.

ORFANEDES: We are a we report you decide. I mean they're public records. People can do with them what they want. It can debate them. And I'm sure...

FEMALE: This can't be wasted.

MALE: That's what I say.

ORFANEDES: I'm sure Mrs. Clinton and her supporters will have their own view of what those documents mean. But let's have the discussion.

MALE: Paul, it's my understanding that when you're successful in these endeavors you post it. You make it public.

ORFANEDES: Absolutely.

MALE: You'd have to believe, although maybe a stretch to believe this, that a campaign against her by say the Trump people would be sophisticated enough to monitor your website every day to see what gifts are coming down.

ORFANEDES: Maybe. I don't know if they do or they don't. They're welcome to.

MALE: ...to present it well enough to stay on point, then you get the kind of nonsense that we've seen the last week or week and a half. But it's not, for – for me to you, I'm grateful and I thank you for your efforts on behalf of all of us to shine the light on what really is happening by these people who wield significant power in our country. And yeah, it's probably the best sanitizer is a spotlight. And unfortunately there are too many traditional media who do not want to look at the truth for political reasons. They ideologically have already decided where they're going and they're not going to go in that direction. So unless the campaign figures out a way to present this information, and the undecided consume it, then even though you're doing the right thing the impact is nil.

MALE: This should be away from the Trump campaign to give it legitimacy.

MALE: Someone else do it.

ORFANEDES: Look, I'm very protective of our status and we report you decide. I mean the purpose of FOIA, there's a great line in a famous Supreme Court case to shine the light – it's the sunlight being the best infect ant. You know, we want to shine the light on what the government's up to. It's the purpose of FOIA and that's what we do. What people do with our work, you know, it's up to them.

FEMALE: ...anything further will be done on the Clinton Foundation, in your opinion?

ORFANEDES: By whom? I know I saw him interviewed yesterday and they seem like they're taking information from multiple sources, including the stuff we've uncovered. And he's using it. So to me that's perfect for people to use whatever information we have. I don't know. I think the Attorney General said nothing for 27 months. I don't know where that came from. I didn't see her interview but that was the headline was nothing for 27 months. So I don't expect anything out of the government based on that. But that doesn't stop, you know, private citizens. We've done a tremendous amount of work, Citizens United has done some very good work. This reporter, Leopold, from – I believe he's with – who's he with? He's done a lot of good work. Anyway, we're out there. Other groups are out there trying to get information out. Trying to come up with creative legal theories to stick our nose into things.

DUTTON: I've got a question. You've been deposing people. Clinton's aides. You've requested a deposition of her. What do you do with those depositions? And are they video?

ORFANEDES: They are video. We are not allowed to disclose the videos. The videos are under seal. A group called the Reporters Committee for Freedom of the Press has filed a motion with the court asking that they be unsealed. We didn't take a position on that. There are transcripts. The transcripts are available on our website. In fact, one enterprising group out here took the transcripts and made a video. They hired actors and did a reconstruction. So that was really fun. There's no video that's available yet. Maybe someday the court will change its mind and allow them to be disclosed.

MALE: Do you know how you're portrayed in that video?

ORFANEDES: I didn't watch it. I just didn't watch it.

DUTTON: I'm wondering has Hillary Clinton ever been deposed? Has she ever been deposed under oath?

ORFANEDES: I believe she has been. I don't believe it was in a civil context. In Ken Starr's investigation she was deposed in lieu of being brought before a Grand Jury. Although she did testify before a Grand Jury there. So I know she has been deposed.

DUTTON: So it takes a court action to get access to these video depositions?

ORFANEDES: Yes. The ones from our case. Yes. The court will have to unseal

them. I think he was concerned – the issue came up – we deposed Bryan Pagliano. And Bryan Pagliano was an IT guy for Secretary Clinton’s presidential campaign. He ended up being a political appointee at the State Department. The State Department was kind of flummoxed because they had never had a political appointee who was an IT person. He served as sort of a coordinator between the State Department and Justin Cooper in Bill Clinton’s office and dealing with issues, tech issues and things like that. So he was providing support. He would go up to the Chappaqua to work on the server which we’re still trying to figure out if that was on State Department time or if he was paid through the Clintons for that. To make a long story short, he took the 5th Amendment when he was deposed in response to every question except, “What is your name?” He had asked that not be deposed or in the alternative that the videos be sealed because he didn’t want videotape out there of him taking the 5th Amendment. He was concerned that someone would abuse it or use it for political purposes. So the court sealed all of the videos. Not just his but all in response to that request. And that’s the request that the Reporters Committee has asked the court to reconsider.

(End of tape.)