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Hearing on "Preventing Violations of Federal Transparency Laws"

September 10, 2013

Thank you, Mr. Chairman, for holding today's hearing. Although some may suggest that the Committee's focus on federal employees using personal email accounts seems trivial—especially in light of the grave national security questions Congress is currently facing—I believe government transparency is a significant matter that potentially affects every policy we implement.

For this reason, I support responsible efforts to ensure that our government is operating in a transparent manner, and I have advocated strongly for this Committee to exercise its jurisdiction to conduct robust oversight aimed at improving transparency.

Over the past five years, our nation has made great strides toward these goals, and we should acknowledge these improvements. Any suggestion that the Obama Administration is somehow less transparent or less compliant with federal records laws than the previous Administration fails to recognize reality.

During the Bush Administration, the White House lost hundreds of days of official emails, and top officials routinely used their Republican National Committee email accounts for official business. An investigation by this Committee revealed that of 88 officials who used RNC email accounts for official business, no emails were preserved for 51 of them.

I would like to enter into the record an [article](#) from the Associated Press in 2007, which said this: "The White House said Wednesday it had mishandled Republican-Party sponsored e-mail accounts used by nearly two-dozen presidential aides, resulting in the loss of an undetermined number of e-mails concerning official White House business."

Those emails involved the U.S. Attorney firings, the Jack Abramoff scandal, and a host of other matters, and they were lost forever. These systemic deficiencies prevented Congress and the American people from fully understanding how their government was operating at the highest levels.

In contrast, President Obama has taken significant steps to improve records management. The White House email system now automatically preserves all emails from White House

accounts. On November 28, 2011, President Obama became the first President since President Truman to issue a directive to agencies on managing federal records. As we will hear today, the President instructed the Archivist and the Director of OMB to craft a 21st-century framework to improve agency performance and begin managing email records in an electronic format by 2016.

So is the Obama Administration more transparent than its predecessor? In my opinion, absolutely. Can we do more to increase transparency and compliance with federal records laws? Absolutely. And we must. I hope today's hearing focuses on how we can do that.

Today, we will hear from four witnesses who used personal email accounts to conduct official business. To be clear, no federal law prohibits the use of personal email for official business—so long as those emails are properly preserved.

In this case, it appears that the majority of emails at issue were in fact properly preserved because employees copied them to their official accounts to ensure that agency servers archived them. In cases in which this did not happen, it appears that employees have gone back to recover emails in order to ensure that they are fully available for review.

Clearly, we can always do better in terms of ensuring that federal employees know the rules and comply with them. To this end, I introduced H.R. 1234, the Electronic Message Preservation Act, in order to modernize the Federal Records Act and the Presidential Records Act for the electronic age.

Mr. Chairman, an amendment you added during our Committee markup is directly on point for this hearing. It would ensure that email records created using non-official accounts are preserved and accessible through agency recordkeeping systems by requiring employees to forward email records to their official accounts within five days.

But my bill has languished since we passed it out of this Committee in March. Mr. Chairman, I hope you will join me in urging the House leadership to bring my bill to the House floor as soon as possible.

Finally, I want to thank the witnesses for their testimony today. Each of you has served or is serving this country in a critical government position. Several of you rearranged your schedules to be here today, some even under threat of subpoena. Of course, the Committee deserves answers to our questions, but you also deserve to be treated with respect and dignity. I want you to know that we appreciate your service and your cooperation.

Thank you.

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