

GARY C. PETERS, MICHIGAN, CHAIRMAN

THOMAS R. CARPER, DELAWARE
MAGGIE HASSAN, NEW HAMPSHIRE
KYRSTEN SINEMA, ARIZONA
JACKY ROSEN, NEVADA
ALEX PADILLA, CALIFORNIA
JON OSSOFF, GEORGIA

ROB PORTMAN, OHIO
RON JOHNSON, WISCONSIN
RAND PAUL, KENTUCKY
JAMES LANKFORD, OKLAHOMA
MITT ROMNEY, UTAH
RICK SCOTT, FLORIDA
JOSH HAWLEY, MISSOURI

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

DAVID M. WEINBERG, STAFF DIRECTOR
PAMELA THIESSEN, MINORITY STAFF DIRECTOR
LAURA W. KILBRIDE, CHIEF CLERK

August 10, 2022

Mr. James Murray
Director
United States Secret Service
950 H St. NW
Washington, DC 20223

Dear Director Murray:

I am deeply disturbed by recent public reporting and the accounts of United States Secret Service (USSS) officials that your agency erased information including employee text messages that were sent or received on or about January 5 – 6, 2021, including messages immediately prior to, during, and following the January 6th attack on the United States Capitol. This reportedly occurred in connection with a 2021 cell phone migration despite multiple information and preservation of records requests by both Members of Congress and the Department of Homeland Security (DHS) Office of Inspector General (OIG) for information that included these messages.¹ This apparent deletion of public records may have violated the Federal Records Act and has negatively impacted oversight and investigations surrounding the January 6th attack.

In a briefing provided to the Committee, USSS officials confirmed reports that the agency carried out a planned cell phone migration from January through April 2021, which involved erasing all data from employees' cell phones.² Rather than systematically backing up the cell phone data, officials stated that agency policy is for personnel to preserve any of their own text messages that may be federal records. Despite requests for information made by Members of Congress and the DHS OIG both before and during the migration, the USSS failed to take additional precautions to preserve information, such as halting the migration to ensure any responsive data was preserved.³

¹ Letter from Representatives Schiff, Thompson, Maloney, and Nadler, to Christopher Wray, Steve Vanech, Joseph Maher, and John Ratcliffe (Jan. 16, 2021); Letter from Sen. Gary C. Peters, et al, to Ms. Jennifer A. Hemingway, et al (Feb. 8, 2021); and Letter from Representatives Maloney, Schiff, Thompson, Nadler, Lofgren, and Smith, to Alejandro Mayorkas, Department of Homeland Security (March 25, 2021).

² Anthony Guglielmi, Chief of Communications for the United States Secret Service, Statement on Accusations of Deleted Text Messages From DHS Inspector General (July 14, 2022).

³ Letter from Representatives Schiff, Thompson, Maloney, and Nadler, to Christopher Wray, Steve Vanech, Joseph Maher, and John Ratcliffe (Jan. 16, 2021); Letter from Sen. Gary C. Peters, et al, to Ms. Jennifer A. Hemingway, et al (Feb. 8, 2021); and Letter from Representatives Maloney, Schiff, Thompson, Nadler, Lofgren, and Smith, to Alejandro Mayorkas, Department of Homeland Security (March 25, 2021).

Federal records are essential for Congress and the public to account for government programs, policies, and use of taxpayer funds – both for accountability in the present, and for an accurate historical record in the future. National Archives and Records Administration (NARA) guidance clearly states that “electronic messages created or received in the course of agency business are Federal records.” Text messages are included in this description.⁴ Despite this guidance, the USSS left it up to individual personnel to preserve text messages sent and received on government phones, which appears not to have happened, raising serious questions about records preservation at your agency. It is also concerning that the agency chose to conduct a cell phone migration resulting in the loss of data during a timeframe that included a presidential transition.

To better understand USSS’ decision regarding when to migrate its cell phones, its policies on retaining all federal records, and decisions on preservation of records requested by Congress and Inspectors General, I am writing to request additional information and documents related to this incident. I respectfully request that you provide the following documents and information as soon as possible and no later than August 31, 2022:

1. Please provide a timeline detailing the receipt of requests for information and documents related to the January 6, 2021 attack on the Capitol issued by the DHS Office of Inspector General (OIG) and Congressional committees to the agency and any of its law enforcement components and the responses to such requests.
2. Please provide any relevant policy, guidance, or training, including any USSS records management policies or guidance relevant to electronic message preservation, about preserving texts and other electronic messages, including SMS, iMessages, and other mobile application messages, pursuant to the Federal Records Act and NARA guidance.
 - a. Does USSS have policy, plans, procedures, guidance, or training on employee or contractor use and preservation of mobile messaging in their official capacity, including SMS, iMessage, or other mobile messaging applications? If so, please provide such policy, guidance, or training.
 - b. Does USSS know the extent to which employees or contractors use mobile messaging applications? If so, please provide details of this use.
 - c. Please provide USSS’ plans, policies, procedures, guidance, or training to ensure that mobile messages, including SMS, iMessages, or other mobile application messages, are automatically backed up.
3. Which contractor or contractors performed or supported the cell phone migration? Did the contractor(s) receive any additional guidance regarding records preservation in advance of the cell phone migration? Please provide any relevant guidance or contractual documents describing the scope of the migrations as it pertains to records preservation.

⁴ Bulletin 2015-02, National Archives and Records Administration (July 29, 2015) (<https://www.archives.gov/records-mgmt/bulletins/2015/2015-02.html>).

4. Did the USSS request or the contractor(s) offer or provide any data backup or recovery services? Please provide a copy of the relevant USSS communications with contractor(s) regarding data backup or recovery, and the relevant contract(s).
 - a. Please provide any communications within USSS or between USSS and the contractor(s) about when to conduct the cell phone migration.
5. When USSS received document preservation requests from Congress and the DHS OIG, what steps did the agency take to ensure relevant electronic messages were preserved?
 - a. Did the agency alert personnel that text messages could be among the records that should be preserved pursuant to these requests? Please provide any messages, policy, guidance, or training sent to USSS personnel related to compliance with document preservation requests.
6. How did USSS represent the deletion of text messages in its responses to DHS OIG requests for documents? Please provide any relevant emails or other correspondence between USSS and the OIG.
7. What attempts has USSS made to recover the deleted text messages, and are these efforts ongoing?
 - a. Were any devices using Apple's iCloud for backups, and if so, what steps has USSS taken to fully explore options with Apple to recover backups?
 - b. Were any messages preserved in another cloud system? If so, what steps has USSS taken to recover messages from that system?
8. USSS officials told the Committee that the cell phone migration was the result of a Chief Information Officer (CIO) review and upgrade of the agency's "virtual tool suite."⁵
 - a. Did the CIO consult with the agency's records management officials in conducting this review? Did the CIO consult with DHS?
 - b. Did USSS consider, as part of the review or at any other time, backing up cell phones before undergoing the upgrade? If so, please provide any communications or documents pertaining to this consideration.
 - c. Has USSS considered, as part of the review or at any other time, implementing automatic backups of data, including messages? If so, please provide any communications or documents pertaining to this consideration
 - d. Please provide any agency policies or guidance regarding the backup of data or the preservation of records when migrating, updating, upgrading, or otherwise altering agency information technology systems.

⁵ United States Secret Service, Briefing for U.S. Senate Homeland Security and Governmental Affairs Committee Staff (July 15, 2022).

- e. Please provide any communications to, from, or within the USSS CIO Office that discuss the preservation of records during this migration.
9. Does USSS use, or has USSS considered using, any service to back up text messages through the telecommunications carrier, such as Verizon's Message Archive? If so, please provide any communications or documents pertaining to the use or consideration of these services.
10. I understand that USSS employees and contractors may have utilized iMessage and that the Agency is currently considering disabling iMessage.⁶ Has the agency previously considered disabling iMessage? If so, please provide any documents or communications pertaining to this consideration.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate and Section 12(e) of S. Res. 70 (117th Congress) to investigate the "efficiency, economy, and effectiveness of all agencies and departments of the Government" and "processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems... [and] legislative and other proposals to improve these methods, processes, and relationships."⁷

Sincerely,



Gary C. Peters
Chairman

⁶ Secret Service may disable iMessages to avoid repeat of Jan. 6 controversy, Politico, (<https://www.politico.com/news/2022/07/29/secret-service-may-disable-imessages-jan-6-00048780>).

⁷ S. Rule XXV, S. Res. 70 (117th Congress).