

THE BOLTON INDICTMENT

The John Bolton indictment is a substantive document. If the claims about classification levels stand up, it is as substantive as the indictment against Trump (though with less sensitive documents and none of the obstruction).

For each of 8 charged documents (each was charged twice, once for transmission and once for retention) it describes Bolton sending the information to one of his family members via an AOL account that got hacked by Iran, then keeping it such that it was found when the FBI searched his house earlier this year.

COUNT	APPROXIMATE DATE OF TRANSMISSION	DOCUMENT DESCRIPTION	HIGHEST CLASSIFICATION LEVEL OF INFORMATION IN DOCUMENT
1	Sept. 23, 2018	Document A: Reveals intelligence about future attack by adversarial group in another country.	TOP SECRET//SI [redacted]/NOFORN
2	Nov. 23, 2018	Document B: Reveals liaison partner sharing sensitive information with the U.S. intelligence community.	SECRET//NOFORN

COUNT	APPROXIMATE DATE OF TRANSMISSION	DOCUMENT DESCRIPTION	HIGHEST CLASSIFICATION LEVEL OF INFORMATION IN DOCUMENT
3	Jan. 13, 2019	Document C: Reveals intelligence that a foreign adversary was planning a missile launch in the future; a covert action in a foreign country that is related to sensitive inter-governmental actions; sensitive sources and methods used to collect human intelligence.	TOP SECRET//HCS [redacted] [redacted]//ORCON/NOFORN
4	June 2, 2019	Document D: Reveals intelligence about an adversary's knowledge of planned U.S. actions; intelligence about adversary's plans for attack conducted against U.S. Forces in another country; human intelligence using sensitive sources and methods; a covert action program; intelligence collected on the leader of an adversary nation's military group.	TOP SECRET//SI [redacted] [redacted]//HCS [redacted] [redacted]//ORCON/REL TO USA GBR
5	July 6, 2019	Document E: Reveals intelligence on an adversary's leaders.	TOP SECRET//SI [redacted] [redacted]//HCS [redacted] [redacted]//ORCON/NOFORN

COUNT	APPROXIMATE DATE OF TRANSMISSION	DOCUMENT DESCRIPTION	HIGHEST CLASSIFICATION LEVEL OF INFORMATION IN DOCUMENT
6	Aug. 18, 2019	Document F: Reveals intelligence concerning a foreign country's interactions with an adversary; in quotation marks direct statement collected via intelligence sources and methods on a foreign country; foreign country's intelligence describing an adversary's planned attack on a facility; sensitive sources and methods used to collect intelligence on a foreign country; a covert action and sources and methods used.	TOP SECRET//SI [redacted] [redacted]//HCS [redacted]//ORCON/NOFORN
7	Sept. 8, 2019	Document G: Reveals covert action planned by the U.S. Government; intelligence confirming a foreign adversary was responsible for an attack.	TOP SECRET//SI [redacted] [redacted]//HCS [redacted]//ORCON/NOFORN
8	Sept. 15, 2019	Document H: Reveals a covert action conducted by the U.S. Government, a liaison partner country, and specific information about the action.	TOP SECRET//HCS [redacted]//[redacted]//ORCON/NOFORN

Importantly, none of these are marked classified documents, like Trump's stolen documents were. They are his excerpts. So there will be an enormous contest over the classification determinations, especially since Kash and John Ratcliffe were involved.

There are ten charged retained documents (that is, the same 8, plus two more). The latter two may be marked – they may be the old Iraq documents Bolton referred to.

The indictment describes someone – presumably from Iran – attempting to blackmail Bolton (at which point he told the FBI that he had been hacked).

It also quotes Bolton mocking Pete Hegseth for sharing classified information on Signal.

There are defenses to this case (including that Trump won't prosecute Hegseth). But it is a solid case.

Update: Bolton is quoted referring to "diaries" throughout this indictment.

One of the FBI Agents on this case reportedly was involved in the Joe Biden case.

In that case, Biden fairly argued that DOJ was applying a different standard to him than DOJ

had applied to Reagan in Iran-Contra.

It's Hur's analysis of Biden's diaries that I find most interesting, and troubling. Hur's approach to these diaries is one of the most obvious flags of political bias in a report full of them.

Take his use of language. The word "diaries" appears 103 times in the report [note: someone with interns should replicate this work, as it is inexact]. In about five of those instances, Hur quotes the people around Biden referring to these notebooks as *diaries*. Two instances discuss the Presidential Record Act's language treating diaries as personal records, exempt from PRA. Maybe ten or so appear in a **section** where Hur envisions that Biden would describe these as diaries as a defense, but the word is always put in Biden's mouth. Hur adheres to using "notebooks" here.

Mr. Biden will likely say, he never believed his **notebooks**, which he thought of as his personal **diaries**, fell within that arrangement. He treated the **notebooks** markedly differently from the rest of his notes and other presidential records throughout his vice presidency, for example, allowing staff to store and review his notecards, but not his **notebooks**. 914 This treatment, he will argue, and the extremely personal content of some of the **notebooks**, shows that he considered them to be his personal property. Mr. Biden's **notebooks** included gut-wrenching passages about his son's death and other highly

personal material. 915 His claim that he believed he did not need to send what he considered to be his personal **diary** to be stored at a government facility will likely appeal to some jurors. 916

We expect Mr. Biden also to contend that the presence of classified information in **what he viewed as his diary** did not change his thinking. As a member of the exclusive club of former presidents and vice presidents, Mr. Biden will claim that he knew such officials kept **diaries**, and he knew or expected that those **diaries**-like Mr. Reagan's-contained classified information. 917 He also understood that former presidents and vice presidents took their **diaries** home upon leaving office, without being investigated or prosecuted for it. [all emphasis mine]

But the overwhelming bulk of those remaining 85 or so uses of the word "diaries" describe Reagan's (or in two cases, other Presidents') diaries.

By contrast, there are 461 uses of the word "notebook" in Hur's report. That's the word Hur uses to refer to what he quotes people around Biden calling the President's diaries.

Reagan had diaries. And as a result, when DOJ discovered them, they remained untouched.

Biden has notebooks. By calling these notebooks, Hur permitted himself to do with Biden's most private thoughts what DOJ did not do with Reagan's: review

them all.

Mr. Biden's notebooks, which contained, among other things, his handwritten notes taken during classified meetings as vice president, presented a challenge. None of the pages contained classification markings but investigators assessed some of the content was potentially classified. Classification review by intelligence agencies of unmarked information is more challenging and time-consuming than for marked documents. **We therefore reviewed all of Mr. Biden's handwritten notes** and selected thirty-seven excerpts totaling 109 notebook pages to submit for classification review. Investigators selected entries they believed were most likely highly classified and that a jury of laypeople would find was national defense information under the Espionage Act. [my emphasis]

I assume Bolton will make a similar argument.

Update: Because people are asking, here's a really rough comparison of Bolton's indictment with Trump's.

	Trump	Bolton
793	Just retention	Transmission and retention
Classification level	Compartments, SI, HCS, PLUS	Compartments, SI, HCS
Form	Actual marked documents	Emails to family w/content, diaries
Retention	Refused to give back	No exit interview
Exacerbation	Obstructed and lied	Less than forthcoming with FBI