

Congress of the United States
Washington, DC 20515

September 9, 2016

The Honorable Loretta E. Lynch
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Lynch,

The House Committee on Science, Space, and Technology and the Senate Committee on Homeland Security and Governmental Affairs are examining former Secretary of State Hillary Clinton's use of a private email account and server during her time at the State Department. Materials released by the Federal Bureau of Investigation (FBI) on September 2, 2016,¹ raise significant questions about the security of Secretary Clinton's server, including how her aides tasked with managing her server ensured that our nation's most sensitive national security information stored on her server was not compromised. In light of the FBI's selective release of certain information, the Committees are requesting additional materials necessary to further their oversight.

Following calls from across the political spectrum and Freedom of Information Act requests for the FBI to release all information obtained during the course of its investigation into the security of Secretary Clinton's private server,² the FBI self-selected certain information for public release on September 2, 2016.³ Included in these materials were a summary of Secretary Clinton's July 2, 2016, interview with the FBI and a summary of the investigation.⁴ Although the FBI opted not to make *all* information obtained during the course of its investigation public, the FBI's selective release raises significant additional questions about how Secretary Clinton's aides tasked with managing the private email arrangement handled highly sensitive information stored on her server.

Interviews summarized by the FBI indicate that a Platte River Networks employee, at the behest of Mrs. Clinton's top adviser, Cheryl Mills, apparently carried out mass deletions of information contained on Mrs. Clinton's email server, using software called BleachBit, *after* the *New York Times* uncovered the existence of her private server and email arrangement in March

¹ Federal Bureau of Investigation, Press Release, *FBI Releases Documents in Hillary Clinton E-Mail Investigation* (Sept. 2, 2016), available at <https://www.fbi.gov/news/pressrel/press-releases/fbi-releases-documents-in-hillary-clinton-e-mail-investigation> (last visited Sept. 9, 2016) [hereinafter FBI Press Release, Sept. 2, 2016].

² See, e.g., Harper Neidig, *Clinton Camp Wants FBI Interview Files Released to the Public*, THE HILL, Aug. 16, 2016, available at <http://thehill.com/blogs/ballot-box/presidential-races/291646-clinton-campaign-calls-for-fbi-interview-notes-to-be> (last visited Sept. 9, 2016); Reena Flores, *FBI Releases Documents from Hillary Clinton Email Investigation*, CBS NEWS, Sept. 2, 2016, available at <http://www.cbsnews.com/news/fbi-releases-documents-from-hillary-clinton-email-investigation/> (last visited Sept. 9, 2016).

³ FBI Press Release, Sept. 2, 2016, *supra* note 1.

⁴ *Id.*

2015.⁵ The same Platte River Networks employee charged with deleting emails forgot to do so as instructed. During an interview with the FBI, the Platte River Networks employee apparently declared he had an “oh s***” moment when he remembered that he had been directed to delete the files back in December 2014, but had failed to do so.⁶ Even more troublesome, the employee apparently deleted emails from her server after Benghazi Select Committee Chairman Trey Gowdy issued a preservation order to retain and produce documents.⁷ Further, crucial details regarding phone calls between Clinton aides and Platte River Networks employees in the time frame surrounding the mass deletion were withheld from the FBI.⁸

The FBI’s release of information regarding its investigation highlights many inherent limitations of its review due to the destruction of evidence and inability to recover devices used by Secretary Clinton.⁹ According to the report, Secretary Clinton used 13 email capable devices and one laptop during her tenure as Secretary of State. Secretary Clinton’s attorneys, however, were unable to locate *any* of the devices.¹⁰ Clinton aides reportedly destroyed at least two old Blackberries by smashing them with a hammer or breaking them in half.¹¹

The FBI stated in its report that “investigative limitations, including the FBI’s inability to obtain all mobile devices and various computer components associated with Clinton’s personal email systems, **prevented the FBI from conclusively determining whether the classified information transmitted and stored on Clinton’s personal server systems was compromised via cyber intrusion or other means.**”¹² This admission not only raises questions about the breadth of the review the FBI was able to undertake, but also whether Clinton aides attempted to destroy evidence to avoid answering questions about her private email and server arrangement in the event her unique arrangement was exposed.

Because information obtained during the FBI’s investigation is important to furthering the Committees’ inquiry, we request that you provide unclassified and unredacted copies of interview notes and any accompanying materials for any interviews of Bryan Pagliano, Justin Cooper, and all employees of Platte River Networks. These individuals tasked by Secretary Clinton and her senior advisors to manage her server did not have security clearances and, in some cases, did not have a particular expertise in cybersecurity. It is important for the American public to have a thorough understanding of how Secretary Clinton’s aides handled sensitive national security information.

⁵ FBI Records, The Vault, at 17–19 (Pt. 01 of 02); Michael Schmidt, *Clinton Used Personal Email Account at State Dept., Possibly Breaking Rules*, NY TIMES, Mar. 2, 2016, available at http://www.nytimes.com/2015/03/03/us/politics/hillary-clintons-use-of-private-email-at-state-department-raises-flags.html?_r=0 (last visited Sept. 9, 2016).

⁶ FBI Records, The Vault, at 19 (Pt. 01 of 02).

⁷ Subpoena issued to The Honorable Hillary R. Clinton, U.S. House of Rep., Select Comm. on the Events Surrounding the 2012 Terrorist Attack in Benghazi, Mar. 4, 2015, available at <http://benghazi.house.gov/sites/republicans.benghazi.house.gov/files/Kendall.Clinton%20Subpoena%20-%202015.03.04.pdf> (last visited Sept. 9, 2016).

⁸ FBI Records, The Vault, at 19 (Pt. 01 of 02).

⁹ *Id.* at 8–9.

¹⁰ *Id.* at 8.

¹¹ *Id.* at 9.

¹² *Id.* at 2. Emphasis added.

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The FBI has expressed its “commitment to transparency with respect to the FBI’s investigation of former Secretary of State Clinton’s use of a personal email server.”¹³ The Committees request that you, along with Director Comey, follow through on this commitment by providing the requested information sought by the Committees, which is crucial to furthering the Committees’ understanding of Secretary Clinton’s private server and informing policy changes to prevent similar email arrangements in the future. “The scope of [Congress’s] power of inquiry . . . is as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution.”¹⁴ The congressional investigatory power “encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes.”¹⁵ The Committees have particular jurisdiction in this inquiry pursuant to House Rule X and Senate Rule XXV, respectively.

Please provide the documents responsive to the request by September 16, 2016. Enclosed are instructions for producing documents to the Committees. Please contact Drew Colliatie or Caroline Ingram of Chairman Smith’s staff or Michael Lueptow or Scott Wittmann with Senator Johnson’s staff with any questions. Thank you for your attention to this important matter.

Sincerely,



Lamar Smith
Chairman
Committee on Science, Space,
and Technology
U.S. House of Representatives



Ron Johnson
Chairman
Committee on Homeland Security
and Governmental Affairs
U.S. Senate

cc: The Honorable James B. Comey, Jr., Director
Federal Bureau of Investigation

The Honorable Eddie Bernice Johnson, Ranking Minority Member
Committee on Science, Space, and Technology

The Honorable Thomas R. Carper, Ranking Member
Committee on Homeland Security and Governmental Affairs

Enclosure

¹³ Matt Zapotsky, *Documents from the Hillary Clinton Email Investigation Might be Made Public*, WASH. POST, Aug. 17, 2016, available at <https://www.washingtonpost.com/news/powerpost/wp/2016/08/17/documents-from-the-hillary-clinton-email-investigation-might-be-made-public/> (last visited Sept. 9, 2016).

¹⁴ *Eastland v. U.S. Servicemen’s Fund*, 421 U.S. 491, 504, n. 15 (1975) (quoting *Barenblatt v. United States*, 360 U.S. 109, 111 (1959)).

¹⁵ *Watkins v. United States*, 354 U.S. 178, 187 (1957).

Responding to the Committees' Document Requests

1. In complying with this request, you are required to produce all responsive documents, in unredacted form, that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the House Science Committee or the Senate Homeland Security and Government Affairs Committee ("Committees").
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), or PDF files.
 - (b) Document numbers in the load file should match document Bates numbers and TIF or PDF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
6. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committees' schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.

10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committees' staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. In complying with this request, be apprised that the U.S. House of Representatives, the U.S. Senate, and the Committees do not recognize: any of the purported non-disclosure privileges associated with the common law including, but not limited to, the deliberative process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges or protections from disclosure under the Freedom of Information Act; or any purported contractual privileges, such as non-disclosure agreements.
14. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
15. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
16. Unless otherwise specified, the time period covered by this request is from July 1, 2015 to the present.
17. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
18. All documents shall be Bates-stamped sequentially and produced sequentially.
19. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee on Science, Space, and Technology, production sets shall be delivered to the Majority Staff in Room 2321 of the Rayburn House Office Building and the Minority Staff in Room 324 of the Ford House Office Building. When documents are produced to the Committee on Homeland Security and Governmental Affairs, production sets shall be delivered to the Majority Staff in Room

340 of the Dirksen Senate Office Building and the Minority Staff in Room 346 of the Dirksen Senate Office Building.

20. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committees.

Schedule Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates,

or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.