FEDERAL BUREAU OF INVESTIGATION FOI/PA DELETED PAGE INFORMATION SHEET FOIA 1363182-0

Total Withheld Page(s) = 40

Bates Page Reference	Reason for Withholding
Kelelence	(i.e., exemptions with coded rationale, duplicate, sealed by order of court, etc.)
FBI (16cv2531)-34 through FBI (16cv2531)-57	DUPLICATE
FBI (16cv2531)-106 through FBI (16cv2531)- 110	DUPLICATE
FBI (16cv2531)-117 through FBI (16cv2531)- 127	DUPLICATE

U.S. Department of Justice



Federal Bureau of Investigation

Washington, D.C. 20535

October 28, 2016

Honorable Devin Nunes Chairman Permanent Select Committee on Intelligence

Honorable Robert Goodlatte Chairman Committee on the Judiciary

Honorable John Culberson Chairman Committee on Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies

Honorable Jason Chaffetz Chairman Committee on Oversight and Government Reform

Honorable Richard M. Burr Chairman Select Committee on Intelligence

Honorable Charles E. Grassley Chairman Committee on the Judiciary

Honorable Richard Shelby Chairman Committee on Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies

Honorable Ron Johnson Chairman Committee on Homeland Security and Governmental Affairs

Dear Messrs Chairmen:

In previous congressional testimony, I referred to the fact that the Federal Bureau of Investigation (FB1) had completed its investigation of former Secretary Clinton's personal email server. Due to recent developments, I am writing to supplement my previous testimony.

In connection with an unrelated case, the FBI has learned of the existence of emails that appear to be pertinent to the investigation. I am writing to inform you that the investigative team briefed me on this yesterday, and I agreed that the FBI should take appropriate investigative steps designed to allow investigators to review these emails to determine whether they contain classified information, as well as to assess their importance to our investigation.

Although the FBI cannot yet assess whether or not this material may be significant, and 1 cannot predict how long it will take us to complete this additional work, 1 believe it is important to update your Committees about our efforts in light of my previous testimony.

Sincerely yours,

James B. Comey

- 1 Honorable Dianne Feinstein
 Vice Chairman
 Select Committee on Intelligence
 United States Senate
 Washington, DC 20510
- Honorable Patrick J. Leahy Ranking Member
 Committee on the Judiciary United States Senate
 Washington, DC 20510
- I Honorable Barbara Mikulski
 Ranking Member
 Committee on Appropriations
 Subcommittee on Commerce, Justice, Science
 and Related Agencies
 United States Senate
 Washington, DC 20510
- 1 Honorable Thomas R. Carper Ranking Member Committee on Homeland Security and Governmental Affairs United States Senate Washington, DC 20510
- 1 Honorable Adam B. Schiff Ranking Member
 Permanent Select Committee on Intelligence
 U.S. House of Representatives
 Washington, DC 20515
- Honorable John Conyers, Jr.
 Ranking Member
 Committee on the Judiciary
 U.S. House of Representatives
 Washington, DC 20515
- I Honorable Michael Honda Ranking Member
 Committee on Appropriations
 Subcommittee on Commerce, Justice, Science and Related Agencies
 U.S. House of Representatives
 Washington, DC 20515

 1 - Honorable Elijah E. Cummings Ranking Member
 Committee on Oversight and Government Reform
 U.S. House of Representatives Washington, DC 20515

U.S. Department of Justice

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Federal Bureau of Investigation

Washington, D.C. 20535

November 6, 2016

Henorable Devin Nunes Chairman Permanent Select Committee on Intelligence

Honorable Robert Goodlatte Chairman Committee on the Judiciary

Honorable John Culberson Chairman Committee on Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies

Honorable Jason Chaffetz Chairman Committee on Oversight and Government Reform

Honorable Richard M. Burr Chairman Select Committee on Intelligence

Honorable Charles E. Grassley Chairman Committee on the Judiciary

Honorable Richard Shelby Chairman Committee on Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies

Honorable Ron Johnson Chairman Committee on Homeland Security and Governmental Affairs

Dear Messrs. Chairmen:

I write to supplement my October 28, 2016 letter that notified you the FBI would be taking additional investigative steps with respect to former Secretary of State Clinton's use of a personal email server. Since my letter, the FBI investigative team has been working around the clock to process and review a large volume of emails from a device obtained in connection with an unrelated criminal investigation. During that process, we reviewed all of the communications that were to or from Hillary Clinton while she was Secretary of State.

Based on our review, we have not changed our conclusions that we expressed in July with respect to Secretary Clinton.

I am very grateful to the professionals at the FBI for doing an extraordinary amount of high-quality work in a short period of time.

Sincerely yours. James B. Comey Director

cc: See next page

- 1 Honorable Dianne Feinstein
 Vice Chairman
 Select Committee on Intelligence
- I Honorable Patrick J. Leahy Ranking Member Committee on the Judiciary
- 1 Honorable Barbara Mikulski Ranking Member Committee on Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies
- 1 -- Honorable Thomas R. Carper Ranking Member
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- Honorable Michael Honda Ranking Member Committee on Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies
- Honorable Elijah E. Cummings Ranking Member
 Committee on Oversight and Government Reform

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Federal Bureau of Investigation

Washington, D.C. 20535

November 29, 2016

The Honorable Charles E. Grassley Chairman Committee on the Judiciary United States Senate Washington, DC 20510

Dear Mr. Chairman:

This is in further response to your letter dated October 18, 2016 posing questions arising from your review of materials provided to the Committee on October 14, 2016 related to the FBI's investigation of former Secretary Clinton's use of a personal e-mail server. Specifically, this responds to your request for information concerning allegations of a *quid pro quo* in connection with a State Department request that the FBI downgrade the classification of a specific email in exchange for consideration of an FBI resource request.

By way of background and as reflected in documents previously provided to the Committee, on April 6, 2015, Person who works at Records Management Division, received an email from the State Department requesting that the FBI conduct a classification review of several email communications involving former Secretary of State Hillary Clinton, which the State Department believed might have contained FBI information. There were multiple communications internal to the FBI and between the FBI and the State Department concerning the State Department's request that the FBI change the classification determination of a single sentence contained in one State Department email. In mid-May 2015, FBI FBI EMPLOYEE was contacted by Under Secretary of State Patrick Kennedy concerning this matter. Under Secretary Kennedy hosted a meeting on May 19, 2015 regarding the classification issue. Ultimately, as reflected in the documents, the classification of the email was not changed, and it remains classified today.

This request by the State Department and the FBI's response has been independently reviewed by both the FBI and the State Department Office of Inspector General (OIG). The FBI's investigative team interviewed person on July 30, 2015, and on August 3, 2015 person provided his internal FBI emails to the investigative team. (Copies of these 302s and the emails have been provided to the Committee.) Later that month, on August 28, 2015, the State Department OIG contacted person requesting to speak with him about the meeting with Under Secretary Kennedy regarding the classification decision of an email containing FBI

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information. P advised the FBI's Inspection Division of State Department OIG interest in the matter. FBI Inspection Division then advised the investigative team as well as the Justice Department's Justice Management Division. On November 20, 2015, the FBI's Inspection Division provided State Department OIG with a copy of the State Department email at issue as well as p's emails to the State Department advising of the FBI's classification determination. (A copy of these documents is enclosed.) Ultimately, the State Department OIG met with P on approximately December 15, 2015.

On approximately August 31, 2015, the FBI's investigative team met with the FBI's Inspection Division to discuss what, if any, internal actions were necessary to address the request of ______ regarding additional overseas resources. The Inspection Division advised it did not warrant a separate review because retiree guy who had been ______ was scheduled for retirement at the end of the year, and no change was ultimately made to the classification determination. When the FBI Inspection Division demurred on any investigative action, on September 3, 2015, the FBI investigative team interviewed

As a reminder, the attached material is provided to the Committee in furtherance of its oversight activities. These materials are non-public and contain classified and other sensitive material. For that reason, these materials may not be further disseminated or disclosed, in part or in full, without obtaining the FBI's concurrence. The production of these materials does not waive any applicable privilege.

Sincerely,

Jason V. Herring V Acting Assistant Director Office of Congressional Affairs

Enclosure

 1 - The Honorable Patrick J. Leahy Ranking Member
 Committee on the Judiciary
 United States Senate

Washington, DC 20510

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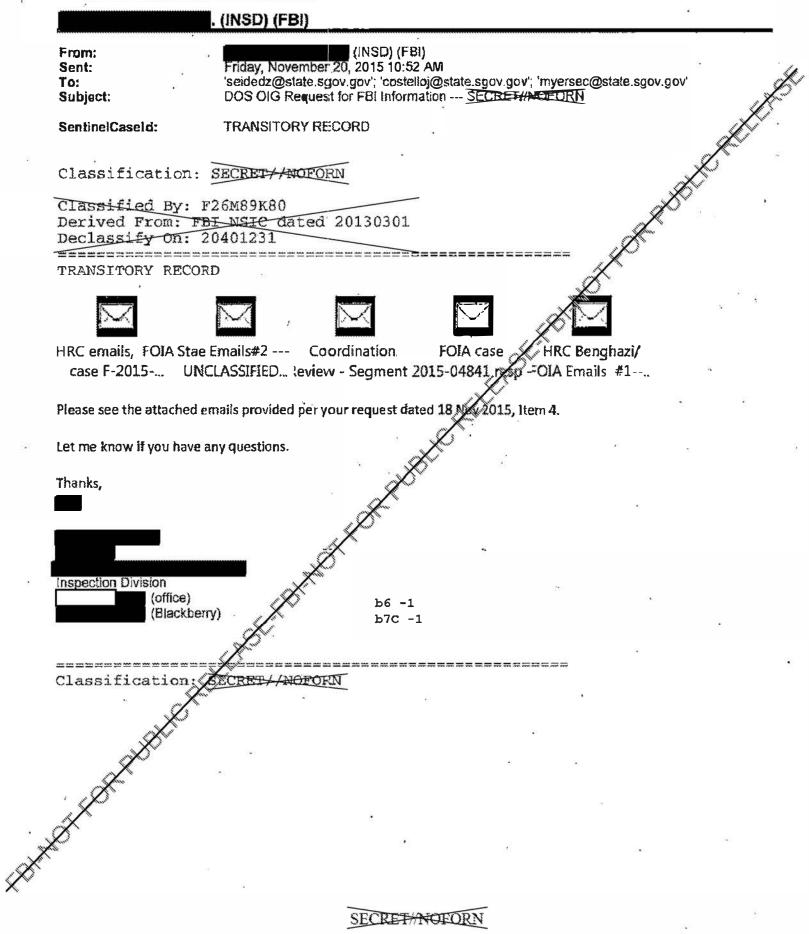
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Washington, D.C. 20520

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ALL FBI INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 04-04-2017 BY J37J85T94 NSICC

Case No. F-2015-04841 Segment: <u>H-0003</u> Requester:

TO:

Record/Information Dissemination Section Records Management Division Federal Bureau of Investigation Washington, DC 20535

FROM:

John F. Hackett, Acting Director Office of Information Programs and Services

SUBJECT: FOLA Referral for Conventation

The attached Department & State material requested in the above FOIA case appears also to be of interest to your agency, and we are therefore referring it to you for consultation. In view of the strong public interest in this matter, we would appreciate your reply no later than close of business on Tuesday, April 7, 2018

The documents consist of emails sent to and/or from former Secretary of State Clinter on her private email account. For your information, these emails have already been provided to Congress in redacted form; the Department coordinated with **Secretary**) from the Department of Justice on that effort. We have duplicated those redactions, and have made some additional redactions under the FOIA which we believe we warranted for wider distribution.

Please be advised that it is our intention to post all released material on the State Department's FOIA website.

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Our preliminary determinations are noted on each document. Portions for withholding (if any) are as indicated, and the exemptions are noted in the margin. Where we have requested concurrent review by other agencies, we names of those agencies are also shown on each document.

Before we take final action, we ask that you review this material. We ask that you not mark for deletion any portion of any document on nonresponsive grounds.

Please address your reply to Eric Stein at (stein) (@state.sgov.gov) and Rosemary Reid, at reidrd@state.sgov.gov). They an also be reached at steinef@state.gov or (202) 663-2190, and reidrd@state.gov or (202) 663-1517.

Should you receive any inquiries cout this collection, please refer them directly to us for response. Additionally, do not hesitate to contact us with any questions.

Attachments: One document Copy of request letter

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â	ALL FBI INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 04-05-2017 BY J37J85T94 NSICG F-2015-04844	
	From: b6 per DOS Sent: Tuesday, March 03, 2015 1:50 PM To: FOIA Request Subject: Freedom of Information Request: Hillary Clinton's Email Address	, J
ж.,	i Alina in A	
	March 3, 2015 Department of State Office of Information Programs and Services A/GIS/IPS/RL U. S. Department of State Washington, D. C. 20522-8100 To Whom It May Concern:	i.
	This is a request under the Freedom of Information Act. I hereby request the following records:	
, De N	Former Secretary Hillary Clinton's email address used to email State & epartment officials. Referenced here: http://redirect.state.sbu/?url=http://www.wila.com/articles/2015/s2/hillary-clinton-s-personal-email-use-may- have-violated-federal-requirements-report-111962.html "After the State Department reviewed those emails, last commt the State Department produced about 300 emails responsive to recent requests from the Select Committee." The requested documents will be made available to the general public free of charge as part of the public information service at MuckRock.com, and is not being made for commercial usage.	
	In the event that fees cannot be waived, awould be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.	.5
ŧ,	Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 yearness days, as the statute requires.	
	Sincerely,	
1	Filed via muckRock.com E-mail (Preferred):	•
×	For mailed responses, please address (see note): b6 per DOS	c
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Rosemary,

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It is under review in the counterterrorism division front office. I'll have more granularity—hopefully the approved response—later this morning.

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			J.
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TRANSITORY RECORD

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Sent: Monday, April 06, 2015 11:36 AM To: (RMD) (FBI)				V
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Segment H-3 chain --- UNCLASSIFIED.htm[10/15/2015 9:50:59]

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the system manager.

This footnote also confirms that this email message has been swept by

MIMEsweeper for the presence of computer viruses.

www.mimesweeper.com

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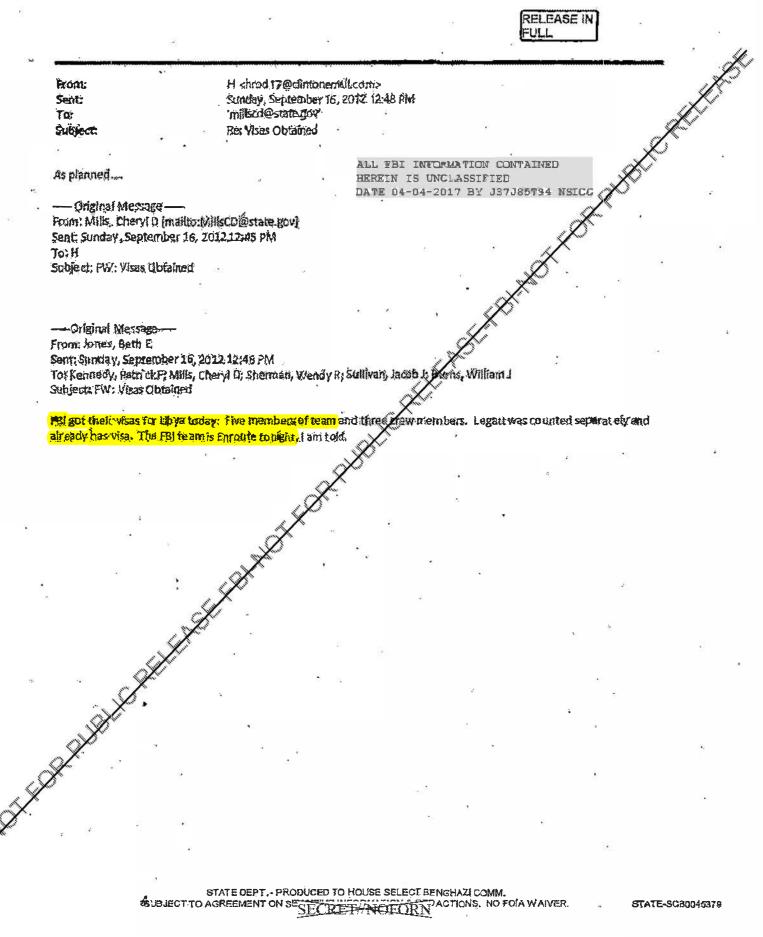
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b5 per DOS STATE DEPT. - PROJUCEU IU YOUSE SELECT BENGHAZI COMM C05739758 SUBJECT TO AGREEMENT ON SENSITIVE INFORMATION & REDACTIONS. NO FOIA WAIVER. b7A per DOS b7C per DOS Best, Anne Anne Slock Tunisia Desk Office of Maghreb Affairs U.S. Department of State Tel.: 202-647-4676 From: Slack Anne Sent: Wednesday, October 17, 2012 7:55 AM To: Sack, Anne; Hayes, Molly E; Kelley, Henry; Worman, Patrick F; S_SpecialAssistang Oc: Siberell, Justin H; Rochman, Daniel A; Norman, Marc E; Witkowsky, Anne A; Thatapson, Mark I; Sellitto, Michael P; Sidereas, Evyenia Subject: RE: b7A per DOS b7C per DOS Colleagues, Regards, Anne From: Stack, Anne Sent: Wednesday, October 17, 2012 7:47 AM 🖉 Tor Hayes, Molly E; Kelley, Henry; Worman, Setrick F; S. Spech Assistants CC: Siderell, Justin H; Rochman, Daniel A; Murrian, Marc E; Witkowsky, Anne A; Thompson, Mark I; Sellitto, Michael P; Sidereas, Eryenfa Subject: RE: b7A per DOS b7C per DOS Colleagues, Lbey will provide an update on Inussen before opening of business Washington nunc-BestAnne and Stack Anisia Desk Office of Maghreb Affairs U.S. Department of State Tel.: 202-647-4676 STATE DEPT. - PRODUCED TO HOUSE SELECT BENGHAZI COMM. SUBJECT TO AGREEMENT ON SETSECRET/NOFORNJACTIONS, NO FOIA WAIVER. STATE-SCB0045742 FBI (16cv2531)-24

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-@	ALL FBI INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 04-04-2017 BY J37J85T\$4 NSICG	
	From: Sullivan, Jacob I < SullivanJ@state.gov> Sent: Wetlnesday, October 3, 2012 4:21 PM To: H Subject: FW: Tripoli trip	A. H. H. H. Ch.
	Class: CONFIDENTIAL ~ Reason: 1.4(D) ~ Declassify on: 10/03/2922	
e N	From: Jones, Beth E Sent: Wednesday, October 03, 2012 2:46 PM To: Burns, William J: Sherman, Wendy R: Sullivari, Jacob J; Kennedy, Patrick F; Dibble, Elizabeth L; Maxwell, Raymond D; Roebuck, William V	
	Cç; Miller, James N; Blair, Oni K; Lakhdhir, Kamala S; Austin-Ferguson, Kathleen T; Lohman, Lee Subject: Tripoli trip Here are some highlights from Tripol. Every meeting started with condolences on Christian and his three	1
	colleagues, and concern that Benghazi would permanently alter US-Libyan relations, used the fact of the Secretary's meeting with President Magaret in NY last week and Deputy secretary Burns' Triper visit as the best evidence of US datermination to continue To build the relationship with this new democracy. In addition:	
а	- FBI INVESTIGATION: With the PM, DFM and Judicial leaders, I placed lively emphasis on the Importance of Libyan cooperation and transparency in the Investigation. This was my printing focus; I stressed the point that Ubya's performance will no doubt color American views on Ubya at a time when Libya will want to burnish its reputation.	*
	• SECURITY: I stressed hist social stability and economic growth will depend on a dramatic improvement in security. All agreed without hesitation. All said that Libya needs outside assistance but when we discessed details of how to move forward on the biastical programs we already have underway, each was quick to identify specific stumbling blocks on each. Especially with the Acting FM, we also identified next steps.	5
•	-TRAINING: We make progress on 1208, Sev, and MANPADS training programs - details to follow front channel. We will also follow up on judicial exchanges and forensic training.	- B1- - 1.4(B)-
2	- NEW GOV'T FORMATION: Abusport described the negotiation process as the single most difficult professional shallenge he has ever faced. So told us the government would be ready by October 3. Even though others warried us he would roles that deadline use to difficulty in reconciling the competing demands of various parties and individuals, he obviously made good on the Oct. 3 announcement undertaking.	
	- DDR: Abushagur will there are three main groups of militants to reintegrate: pathave jobs, part are heading back to university, and part will be offered vocational training. He said he will create a year Ministry of Human Development to oversee DDR; it's unclear how this new ministry will relate to numerous other GOL efforts on this. He expressed concern about the approximately 17,000 criminals released by Qadhave some of whom Joined militias.	2 R. 3
X	WANSITIONAL JUSTICE: The political leaders and judges all pledged to strike a balance between respecting the rights of detainees and holding human rights violators accountable. They acknowledged the profound limitations of their justice system.	
X		
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FBI (16cv2531)-25

- UNSIAL: I had a very good two in meeting with General Smith to discuss how we can partoento help the new Libyan governmental prove security. He has good ideas on which well work closely.

i that separate meetings with PM-elect Abushagur, Acting/Deputy PM Abdel Aziz, Supreme Court President Al Libran, Deputy Prosecutor General Hassadi, NFA Party leader librit, UNSMIL Security Advisor General Smith, JCP (Muslim Brotherhood) Party political director Elbenanni, and sivil society leaders

Morale at post is understandably tocky, but people are caping and continue to work hard in very difficult slicumstances. There are some specific issues that the Deb atment has already solved and others on which we can work to be b the embassy in list literationation to advance USG goals.

I leave for Caino In a few minutes tonight. Beth

HANDBHER P

STATE DEPT. - PROOUCIND TO HOUSE SELECT BENGHAZI COMM. SUBJECT TO AGREEMENT ON SENSIT SECRET/NOFORNTIONS, NO FOIA WAIVER.

STATE-SCB0045562 FBI (16cv2531)-26

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Thanks very much. Please keep me posted.

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From: (RMD) (FBI) [mailto: Sent: Thursday, May 07, 2015 2:52 PM Fo: Reid, Rosemary D; Tillery, Monica J Cc: Gifford, Wesley P Subject: RE: HRC emails, FOIA case F-2015-04841 UNCLASSIFIED//FOUO	b6 -1 b7C - 1	AND C	
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Rosemary,	And the second sec	2.04	
I'm sorry, I've been trying to get an update from our CT Division. They are beir	ng reviewed in CT.		3
	L.	j a	
From: Reid, Rosemary D [<u>mailto:ReidRD@state_sooy.o</u> ov] Sent: Thursday, May 07, 2015 2:28 PM To:(RMD) (FB1); Tillery, Monica J Cc: Gifford, Wesley P Subject: RE: HRC emails, FOIA case F-2015-04841 UNCLASSIFIED//FOUO-	b6 -1 . b7C -1		
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	, Monica J [<u>mailto:TillerM]@state.sgov.gov</u>]		<i>⊠</i> ∦.
	ay, May 05, 2015 9:36 AM (RMD) (FBI)		
	semary D; Gifford, Wesley P	14	
Subject: FW	/: HRC emails, FOIA case F-2015-04841 UNCLASSIFIED// FOI		1. 14
Importance	# High	b7C -1	
Hello			H
l' m f ollowin	ng up on the three additional documents that we sent to y	ou for review. Could you g	ive me a status seport
today?		• • •	X
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Thanks,			a construction of the second s
Monica Till	ery		£
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Rosemary,		and the second sec	
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lust got a cal	I from the CTD Front Office. The response has been approve	ed. You should have it tomorr	0W.
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From: Reid, Sent: Thurso	Rosemary D lay, April 30, 2015 5:03 PM	× ·	ŧ.
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	The emails, to be case to 2013-01011 UNCLASSINED//TOU		
_	l will be away from the office until next Tuzzay. In all comm	nunication's, could you include	Monica Tillery and We
Gifford (cop			50 E
Thanks so m	uch for all you help,		44
Rosemary	· JX		м — 10
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TRANSITO		42	
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manks! Yes	s, this is the type of information we need to see. $\ {}^\prime I \ $ need to	consult with CTDit will go o	ver tonight.
		•	3.
	Rosemary D [mailto:ReidRD@state.sgov.gov]		
	Rosemary D [<u>mailto:ReidRD@state.sgov.gov]</u> <u>scday</u> , April 29, 2015 3:20 PM (RMD) (FBI)		

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Subject: HRC emails, FOIA case F-2015-04841



Unclassified when Separated from Attachments

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Thank you for your response of April 9 concerning your agency's recommendations on one document, which you reviewed in our case number F-2015-04841. I have been asked to send you three more documents from that same case. Please note that the review on these three documents has not been finalized, so the markings reflect the status at this time.

First, is this the type of information that your agency needs to see? If so, do you have recommendations concerning the releasability of the information pertaining to your agency? It would be very much appreciated if you control get back to me as soon as possible.

Thank you, Rosemary Reid 202-663-1517

Confidential

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This document is UNCLASSII	FIED when separated from COMPLETENTIAL attachment(s)
Sensitivity:	Sensitive
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Classified By:	Rosemary Reid, Division Chief
Derived From:	DSCG-11-01
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Federal Bureau of Investigation

Washington, D.C. 20535

ALL FBI INFURMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 04-05-2017 BY J37J85T94 NSICC

November 29, 2016

The Honorable Jason Chaffetz Chairman Committee on Oversight and Government Reform U. S. House of Representatives Washington, DC 20515

Dear Mr. Chairman:

This is in further response to your letter dated October 20, 2016 posing questions arising from your review of materials provided to the Committee on October 14, 2016 related to the FBI's investigation of former Secretary Clinton's use of a personal e-mail server. Specifically, this responds to your request for information concerning allegations of a *quid pro quo* in connection with a State Department request that the FBI downgrade the classification of a specific email in exchange for consideration of an FBI resource request.

Kennedy concerning this matter. Under Secretary Kennedy hosted a meeting on May 19, 2015 regarding the classification issue. Ultimately, as reflected in the documents, the classification of the email was not changed, and it remains classified today.

This request by the State Department and the FBI's response has been independently reviewed by both the FBI and the State Department Office of Inspector General (OIG). The FBI's investigative team interviewed on July 30, 2015, and on August 3, 2015 provided his internal FBI emails to the investigative team. (Copies of these 302s and the emails have been provided to the Committee.) Later that month, on August 28, 2015, the State Department OIG contacted requesting to speak with him about the meeting with Under Secretary Kennedy regarding the classification decision of an email containing FBI

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information.	advised the FBI's Inspection Division of State Department OIG interest
in the matter	FBI Inspection Division then advised the investigative team as well as the Justice
Department's	s Justice Management Division. On November 20, 2015, the FBI's Inspection
Division prov	vided State Department OIG with a copy of the State Department email at issue as
well as	emails to the State Department advising of the FBI's classification
determination	n. (A copy of these documents is enclosed.) Ultimately, the State Department OIG
met with	on approximately December 15, 2015.

On approximately August 31, 2015, the FBI's investigative team met with the FBI's Inspection Division to discuss what, if any, internal actions were necessary to address the request of _______ regarding additional overscas resources. The Inspection Division advised it did not warrant a separate review because ______ who had been _______ was scheduled for retirement at the end of the year, ¹ and no change was ultimately made to the classification determination. When the FBI Inspection Division demurred on any investigative action, on September 3, 2015, the FBI investigative team interviewed _______

As a reminder, the attached material is provided to the Committee in furtherance of its oversight activities. These materials are non-public and contain classified and other sensitive material. For that reason, these materials may not be further disseminated or disclosed, in part or in full, without obtaining the FBI's concurrence. The production of these materials does not waive any applicable privilege.

Sincerely,

Jason V. Herring Acting Assistant Director Office of Congressional Affairs

Enclosure

1 - The Honorable Elijah Cummings Ranking Member Committee on Oversight and Government Reform U. S. House of Representatives Washington, DC 20515

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U.S. Department of Justice



Federal Bureau of Investigation

Washington, D.C. 20535-0001

June 21, 2016

ALL FBI INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 04-05-2017 BY J37J85T94 NSICG

The Honorable Barbara Comstock Member of Congress Suite 218 21430 Cedar Drive Sterling, VA 20164

Dear Congresswoman Comstock:

This is in response to your April 21, 2016, inquiry on behalf of your constituent regarding former Secretary of State Hillary Clinton.

concerns to our attention, due

While we appreciate your bringing to a long-standing FBI and Department of Justice policy, we are prohibited from commenting on an ongoing investigation. Preventing the premature release of information ensures the integrity of our criminal justice system and any potential judicial proceeding resulting from FBI investigations.

I hope this information is helpful to you in responding to your constituent.

Sincerely,

Elizabeth R. Section Chief Office of Congressional Affairs

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June 21, 2016

The Honorable Barbara Comstock Member of Congress Suite 218 21430 Cedar Drive Sterling, VA 20164

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Dep. Director -

Off. of EEOA

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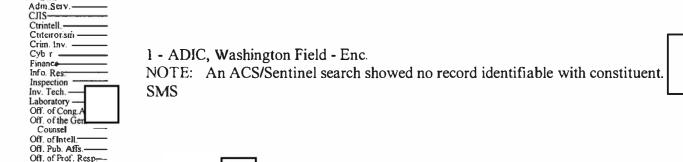
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Elizabeth R. Beers Section Chief Office of Congressional Affairs



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MAIL ROOM

FBI (16cv2531)-59

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

ALL FBI INFURMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 04-05-2017 BY J37J85T94 NSICO

AUG 1 6 2016

The Honorable Charles E. Grassley Chairman Committee on the Judiciary United States Senate Washington, DC 20510

Dear Mr. Chairman:

I am writing in response to your letters to Director Comey dated May 17, 2016 and July 6, 2016 regarding the FBI's investigation of former Secretary of State Hillary Clinton's use of a private email server. As Director Comey said in his statement on July 5, 2016, due to intense public interest in the FBI's investigation into this matter, we believe it is important to address your questions and explain our recommendation as to the appropriate resolution of this investigation. For the same reasons, the FBI will be making a document production responding to your interest in this matter.

The FBI conducted this investigation, as it does all investigations, in a competent, honest, and independent way. We had an investigative team of agents and analysts supported by technical experts, lawyers, and others from several divisions in the FBI. The investigative team worked for close to a year conducting interviews, reviewing emails, and completing technical examinations of recovered equipment. In addition, the FBI's technical team conducted extensive analysis to understand what, if any, indications there might be of a compromise of Secretary Clinton's electronic devices by hostile actors.

After nearly a year of gathering and analyzing evidence from numerous sources, the FBI made a recommendation to the Department of Justice. Although the prosecutors make the ultimate decision about whether or not charges are appropriate based on the evidence, the FBI frequently makes recommendations and engages in conversations with the prosecutors regarding the appropriate resolution of an investigation, given the evidence. The fact that the FBI made a recommendation was not unusual; the fact that it was shared publicly was.

Our investigation looked at whether there was evidence that classified information was improperly stored or transmitted on Secretary Clinton's private email system, in violation of a federal statute (18 U.S.C. § 793) that makes it a felony to mishandle classified information either intentionally or in a grossly negligent way, or another statute (18 U.S.C. § 1924) that makes it a misdemeanor to knowingly remove classified information from appropriate systems or storage facilities. We also considered a statute (18 U.S.C. § 2071) making it illegal to willfully and unlawfully conceal, remove, or destroy a federal record. Ultimately, the FBI did not recommend

prosecution based on an assessment of the facts and a review of how these statutes have been charged in the past.

As the Director testified, cases prosecuted by the Department of Justice under the relevant statutes involved some combination of: (1) clearly intentional and willful mishandling of classified information; (2) significant quantities of material exposed in such a way as to support an inference of intentional misconduct; (3) indications of disloyalty to the United States; or (4) efforts to obstruct justice. One or more of these factors was present in the cases against David Petraeus, Sandy Berger, and Bryan Nishimura. For instance, Petraeus provided vast quantities of highly sensitive, compartmented information that he knew to be classified to a person without an appropriate clearance or a need to know the information and, when confronted, he lied to the FBI. Berger removed clearly marked, highly classified information from the National Archives by secreting the documents in his clothing. These cases included clear evidence of knowledge and intent which illustrates an important distinction from what the FBI found in this investigation. Nishimura, a Naval Reservist stationed in Afghanistan, removed hundreds of marked classified documents, without authorization, from classified U.S. military information systems, which he then placed onto several personally-owned, unauthorized devices. Nishimura later lied to investigators about onto which devices he had placed classified information, and destroyed a large quantity of classified material he had maintained in his home. Despite this destruction, a subsequent search of his house recovered 256 marked classified documents which he was not authorized to store.

The fact that Secretary Clinton received emails containing "(C)" portion markings is not clear evidence of knowledge or intent. As the Director has testified, the FBI's investigation uncovered three instances of emails portioned marked with "(C)," a marking ostensibly indicating the presence of information classified at the Confidential level. In each of these instances, the Secretary did not originate the information; instead, the emails were forwarded to her by staff members, with the portion-marked information located within the email chains and without header and footer markings indicating the presence of classified information. Moreover, only one of those emails was determined by the State Department to contain classified information. There has been no determination by the State Department as to whether these three emails were classified at the time they were sent.

Nor is the fact that Secretary Clinton emailed former Deputy Chief of Staff Jacob Sullivan asking him to remove "identifying heading[s]" from a document and "send nonsecure" as a "nonpaper" sufficient evidence to show that she knowingly or willfully mishandled classified information. As we understand the common State Department use of the term, "nonpaper" refers to a document authorized for distribution to a foreign government that is without explicit attribution to the U.S. Government and would not contain classified information. In their interviews with the FBI, both Secretary Clinton and Sullivan indicated their understanding that this was an instruction to remove classified information from the talking points, in order to send the resulting unclassified document through non-secure means. Moreover, the FBI investigation determined that a secure fax was successfully sent subsequent to this message, and no evidence was recovered indicating that the unclassified "non-paper" was ever created or sent over the unclassified email system.

During the course of its investigation, the FBI conducted numerous interviews, including one of John Bentel, then-Director of S/ES-IRM, the State Department official referenced in the State Department OIG report as having discouraged employees from raising concerns about Secretary Clinton's use of personal email. In his FBI interview, Bentel denied that State Department employees raised concerns about Secretary Clinton's email to him. The FBI ultimately considered the inconsistencies between Bentel's statements to the FBI and his subordinates' reported statements to investigators with the Department of State Inspector General to be outside the scope of its investigation, and, further, ones which had been appropriately addressed by the Department of State Inspector General.

During the course of the investigation, the FBI interviewed Department of State security employees and reviewed documents regarding cyber security, including the Boswell memorandum, which outlined an increase in cyber actors targeting the personal email accounts of State Department employees.¹ As Secretary Clinton did not believe she would or did receive classified emails on her personal email system, it is unclear that a warning of this nature would have had any impact on her conduct or intent.

Title 18, United States Code, Section 793 on its face makes it a felony to cause national defense information to be removed, lost, stolen, or destroyed through gross negligence. Even at the time the statute was passed, there were concerns in Congress about the inclusion of this provision. Additionally, with respect to this statute, there are concerns about the constitutional implications of criminalizing such conduct without requiring the government to prove that the person knew he or she was doing something wrong, which is reflected in the Justice Department's history in charging this specific subsection of the statute (18 U.S.C. § 793(f)). Our understanding is the Department has only charged one person with mishandling national defense information through gross negligence in the 99-year history of the statute, and in that case, the charge was dismissed when the defendant pled guilty to making false statements in violation of 18 U.S.C. § 1001. Moreover, in that case, there were indications of espionage and disloyalty to the United States. As the Director testified, he believed that to prosecute Secretary Clinton or others within the scope of the investigation for gross negligence would be inconsistent with how the Department has interpreted and applied the statute since Congress enacted it.

As the Director stated, the FBI did find evidence that Secretary Clinton and her colleagues were extremely careless in their handling of certain, very sensitive, highly classified information. The term "extremely careless" was intended to be a common sense way of describing the actions of Secretary Clinton and her colleagues. The Director did not equate "extreme carelessness" with the legal standard of "gross negligence" that is required by the statute. In this case, the FBI assessed that the facts did not support a recommendation to prosecute her or others within the scope of the investigation for gross negligence.

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As the Director noted in his statement, the FBI made its recommendation concerning this matter to the Justice Department independent of any consultation with the Attorney General or any White House officials, and the investigation was conducted without any improper political influence of any kind. For this reason, the FBI does not believe the appointment of a Special Counsel is warranted. In addition, the FBI would refer you to the Department of Justice for any explanation of legal agreements that may or may not have been made with potential witnesses, as well as other judgments or decisions made by Department of Justice officials.

Lastly, concerning questions related to whether other matters may be under investigation, consistent with prior statements, the FBI neither confirms nor denies the existence of non-public investigations.

Thank you for your continued interest in this important matter, and, as always, we appreciate your continued support for the men and women of the FBI. The production of documents related to this matter will be provided under separate cover letter consistent with required protocols for the transmission of classified documents.

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AUG 1 6 2016

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Dep. Director	
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Asst. Dir.:	United States Senate
Adm. Serv.	Washington, DC 20510
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Crim. Inv.	- 1 A/AD Herring
Cyber	- 1 – A/AD Herring JVH
Finance Info. Res.	1 - Ms. Beers
Inspection	
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WU ADWO ADWO DP WU ADWO ADWO DP Jason V. Herring Acting Assistant Director Office of Congressional Affairs

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

AUG 1 6 2016

The Honorable Devin Nunes Chairman Permanent Select Committee on Intelligence United States House of Representatives Washington, DC 20515

Dear Mr. Chairman:

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The Honorable Devin Nunes

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Sincerely. Jason V. Herring

Acting Assistant Director Office of Congressional Affairs

FBI (16cv2531)-70

 1 - The Honorable Adam B. Schiff Ranking Member
 Permanent Select Committee on Intelligence
 United States House of Representatives
 Washington, DC 20515

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AUG 1 6 2016

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Security _____ Training ____ Off. of EEOA I am writing in response to your letter to Director Comey dated July 6, 2016 regarding the FBI's investigation of former Secretary of State Hillary Clinton's use of a private email server. As Director Comey said in his statement on July 5, 2016, due to intense public interest in the FBI's investigation into this matter, we believe it is important to address your questions and explain our recommendation as to the appropriate resolution of this investigation. For the same reasons, the FBI will be making a document production responding to your interest in this matter.

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Dcp. Director			
EAD-Adm	1 - The Honorable Adam B. Schiff		
EAD-CT/CI			
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EAD-Intell.	Permanent Select Committee on Intelligence		
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MAILROOM []

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The Honorable Devin Nunes

Our investigation looked at whether there was evidence that classified information was improperly stored or transmitted on Secretary Clinton's private email system, in violation of a federal statute (18 U.S.C. § 793) that makes it a felony to mishandle classified information either intentionally or in a grossly negligent way, or another statute (18 U.S.C. § 1924) that makes it a misdemeanor to knowingly remove classified information from appropriate systems or storage facilities. We also considered a statute (18 U.S.C. § 2071) making it illegal to willfully and unlawfully conceal, remove, or destroy a federal record. Ultimately, the FBI did not recommend prosecution based on an assessment of the facts and a review of how these statutes have been charged in the past.

As the Director testified, cases prosecuted by the Department of Justice under the relevant statutes involved some combination of: (1) clearly intentional and willful mishandling of classified information; (2) significant quantities of material exposed in such a way as to support an inference of intentional misconduct; (3) indications of disloyalty to the United States; or (4) efforts to obstruct justice. One or more of these factors was present in the cases against David Petraeus, Sandy Berger, and Bryan Nishimura. For instance, Petraeus provided vast quantities of highly sensitive, compartmented information that he knew to be classified to a person without an appropriate clearance or a need to know the information and, when confronted, he lied to the FBI. Berger removed clearly marked, highly classified information from the National Archives by secreting the documents in his clothing. These cases included clear evidence of knowledge and intent which illustrates an important distinction from what the FBI found in this investigation. Nishimura, a Naval Reservist stationed in Afghanistan, removed hundreds of marked classified documents, without authorization, from classified U.S. military information systems, which he then placed onto several personally-owned, unauthorized devices. Nishimura later lied to investigators about onto which devices he had placed classified information, and destroyed a large quantity of classified material he had maintained in his home. Despite this destruction, a subsequent search of his house recovered 256 marked classified documents which he was not authorized to store.

The fact that Secretary Clinton received emails containing "(C)" portion markings is not clear evidence of knowledge or intent. As the Director has testified, the FBI's investigation uncovered three instances of emails portioned marked with "(C)," a marking ostensibly indicating the presence of information classified at the Confidential level. In each of these instances, the Secretary did not originate the information; instead, the emails were forwarded to her by staff members, with the portion-marked information located within the email chains and without header and footer markings indicating the presence of classified information. Moreover, only one of those emails was determined by the State Department to contain classified information. There has been no determination by the State Department as to whether these three emails were classified at the time they were sent.

Title 18, United States Code, Section 793 on its face makes it a felony to cause national defense information to be removed, lost, stolen, or destroyed through gross negligence. Even at the time the statute was passed, there were concerns in Congress about the inclusion of this provision. Additionally, with respect to this statute, there are concerns about the constitutional implications of criminalizing such conduct without requiring the government to prove that the person knew he or she was doing something wrong, which is reflected in the Justice

Department's history in charging this specific subsection of the statute (18 U.S.C. § 793(f)). Our understanding is the Department has only charged one person with mishandling national defense information through gross negligence in the 99-year history of the statute, and in that case, the charge was dismissed when the defendant pled guilty to making false statements in violation of 18 U.S.C. § 1001. Moreover, in that case, there were indications of espionage and disloyalty to the United States. As the Director testified, he believed that to prosecute Secretary Clinton or others within the scope of the investigation for gross negligence would be inconsistent with how the Department has interpreted and applied the statute since Congress enacted it.

As the Director stated, the FBI did find evidence that Secretary Clinton and her colleagues were extremely careless in their handling of certain, very sensitive, highly classified information. The term "extremely careless" was intended to be a common sense way of describing the actions of Secretary Clinton and her colleagues. The Director did not equate "extreme carelessness" with the legal standard of "gross negligence" that is required by the statute. In this case, the FBI assessed that the facts did not support a recommendation to prosecute her or others within the scope of the investigation for gross negligence.

However, as the Director has explained, this is not to say that someone else who engaged in this type of conduct would face no consequences for handling classified information in a similar manner if they were still a government employee. For example, there are potentially severe administrative consequences within the FBI for security violations involving the mishandling of classified information, up to and including security clearance revocation and dismissal. The FBI is in the process of providing relevant information to other U.S. Government agencies to conduct further security and administrative reviews they deem appropriate for their respective employees. If someone who engaged in this type of conduct applied for a job at the FBI, the facts and circumstances surrounding this activity would be a significant factor in a suitability review for a security clearance and employment at the Bureau.

Thank you for your continued interest in this important matter, and, as always, we appreciate your continued support for the men and women of the FBI. The production of documents related to this matter will be provided under separate cover letter consistent with required protocols for the transmission of classified documents.

Sincerely,

Jason V. Herring Acting Assistant Director Office of Congressional Affairs

FBI (16cv2531)-73

- 1 The Honorable Adam B. Schiff Ranking Member
- Permanent Select Committee on Intelligence United States House of Representatives Washington, DC 20515

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

ALL FBI INFURMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 04-06-2017 BY J37J85T94 NSICC

AUG 1 6 2016

The Honorable Jason Chaffetz Chairman Committee on Oversight and Government Reform United States House of Representatives Washington, DC 20515

The Honorable Elijah E. Cummings Ranking Member Committee on Oversight and Government Reform United States House of Representatives Washington, DC 20515

Dear Mr. Chairman and Mr. Ranking Member:

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ALL FBI INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 04-06-2017 BY J37J85T34 NSICC

AUG 1 6 2016

The Honorable Jason Chaffetz Chairman Committee on Oversight and Government Reform United States House of Representatives Washington, DC 20515

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FBI (16cv2531)-77

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U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

AUG 1 6 7016

The Honorable Robert Goodlatte Chairman Committee on the Judiciary United States House of Representatives Washington, DC 20515

Dear Mr. Chairman:

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The Honorable Robert Goodlatte

prosecution based on an assessment of the facts and a review of how these statutes have been charged in the past.

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Lastly, concerning questions related to whether other matters may be under investigation, consistent with prior statements, the FBI neither confirms nor denies the existence of non-public investigations.

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 1 - The Honorable John Conyers Ranking Member
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United States House of Representatives Washington, DC 20515

ALL FBI INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 04-06-2017 BY J37385T94 NSICC

FBI (16cv2531)-84

AUG 1 6 2016

The Honorable Robert Goodlatte Chairman Committee on the Judiciary United States House of Representatives Washington, DC 20515

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EAD-Adm.

EAD-CT/CI

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EAD-LES Asst. Dir.:

> 1 - The Honorable John Conyers Ranking Member Committee on the Judiciary United States House of Representatives Washington, DC 20515 1 - FBI ExecSec, Room 6147 TRIM # 16/do/2351 1 – A/AD Herring TVH

1 - Ms. Beers

MAILROOM

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The fact that Secretary Clinton received emails containing "(C)" portion markings is not clear evidence of knowledge or intent. As the Director has testified, the FBI's investigation uncovered three instances of emails portioned marked with "(C)," a marking ostensibly indicating the presence of information classified at the Confidential level. In each of these instances, the Secretary did not originate the information; instead, the emails were forwarded to her by staff members, with the portion-marked information located within the email chains and without header and footer markings indicating the presence of classified information. Moreover, only one of those emails was determined by the State Department to contain classified information. There has been no determination by the State Department as to whether these three emails were classified at the time they were sent.

Title 18, United States Code, Section 793 on its face makes it a felony to cause national defense information to be removed, lost, stolen, or destroyed through gross negligence. Even at the time the statute was passed, there were concerns in Congress about the inclusion of this provision. Additionally, with respect to this statute, there are concerns about the constitutional implications of criminalizing such conduct without requiring the government to prove that the person knew he or she was doing something wrong, which is reflected in the Justice

The Honorable Robert Goodlatte

Department's history in charging this specific subsection of the statute (18 U.S.C. § 793(f)). Our understanding is the Department has only charged one person with mishandling national defense information through gross negligence in the 99-year history of the statute, and in that case, the charge was dismissed when the defendant pled guilty to making false statements in violation of 18 U.S.C. § 1001. Moreover, in that case, there were indications of espionage and disloyalty to the United States. As the Director testified, he believed that to prosecute Secretary Clinton or others within the scope of the investigation for gross negligence would be inconsistent with how the Department has interpreted and applied the statute since Congress enacted it.

As the Director stated, the FBI did find evidence that Secretary Clinton and her colleagues were extremely careless in their handling of certain, very sensitive, highly classified information. The term "extremely careless" was intended to be a common sense way of describing the actions of Secretary Clinton and her colleagues. The Director did not equate "extreme carelessness" with the legal standard of "gross negligence" that is required by the statute. In this case, the FBI assessed that the facts did not support a recommendation to prosecute her or others within the scope of the investigation for gross negligence.

However, as the Director has explained, this is not to say that someone else who engaged in this type of conduct would face no consequences for handling classified information in a similar manner if they were still a government employee. For example, there are potentially severe administrative consequences within the FBI for security violations involving the mishandling of classified information, up to and including security clearance revocation and dismissal. The FBI is in the process of providing relevant information to other U.S. Government agencies to conduct turther security and administrative reviews they deem appropriate for their respective employees. If someone who engaged in this type of conduct applied for a job at the FBI, the facts and circumstances surrounding this activity would be a significant factor in a suitability review for a security clearance and employment at the Bureau.

Lastly, concerning questions related to whether other matters may be under investigation, consistent with prior statements, the FBI neither confirms nor denies the existence of non-public investigations.

Thank you for your continued interest in this important matter, and, as always, we appreciate your continued support for the men and women of the FBI. The production of documents related to this matter will be provided under separate cover letter consistent with required protocols for the transmission of classified documents.

Sincerely,

Jason V. Herring Acting Assistant Director Office of Congressional Affairs

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

AUG 1 6 2016

The Honorable Ron Johnson Chairman Committee on Homeland Security and Governmental Affairs United States Senate Washington, DC 20510

Dear Mr. Chairman:

I am writing in response to your letters to Director Comey dated July 5, 2016 and July 15, 2016 and to your letter to the Attorney General dated 7/11/2016 regarding the FBI's investigation of former Secretary of State Hillary Clinton's use of a private email server. As Director Comey said in his statement on July 5, 2016, due to intense public interest in the FBI's investigation into this matter, we believe it is important to address your questions and explain our recommendation as to the appropriate resolution of this investigation. For the same reasons, the FBI will be making a document production responding to your interest in this matter.

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The Honorable Ron Johnson

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The Honorable Ron Johnson

Clinton or others within the scope of the investigation for gross negligence would be inconsistent with how the Department has interpreted and applied the statute since Congress enacted it.

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Thank you for your continued interest in this important matter, and, as always, we appreciate your continued support for the men and women of the FBI. The production of documents related to this matter will be provided under separate cover letter consistent with required protocols for the transmission of classified documents.

Sincerely, Jason V. Herring

Acting Assistant Director Office of Congressional Affairs

 The Honorable Thomas R. Carper Ranking Member Committee on Homeland Security and Governmental Affairs United States Senate Washington, DC 20510 The Honorable Ron Jolmson Chairman Committee on Homeland Security and Governmental Affairs United States Senate Washington, DC 20510

AUG 1 6 2016

Dear Mr. Chairman:

I am writing in response to your letters to Director Comey dated July 5, 2016 and July 15, 2016 and to your letter to the Attorney General dated 7/11/2016 regarding the FBI's investigation of former Secretary of State Hillary Clinton's use of a private email server. As Director Comey said in his statement on July 5, 2016, due to intense public interest in the FBI's investigation into this matter, we believe it is important to address your questions and explain our recommendation as to the appropriate resolution of this investigation. For the same reasons, the FBI will be making a document production responding to your interest in this matter.

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The Honorable Ron Johnson

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The Honorable Ron Johnson

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Thank you for your continued interest in this important matter, and, as always, we appreciate your continued support for the men and women of the FBI. The production of documents related to this matter will be provided under separate cover letter consistent with required protocols for the transmission of classified documents.

Sincerely,

Jason V. Herring Acting Assistant Director Office of Congressional Affairs



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535 September 1, 2016

ALL FBI INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 04-06-2017 BY J37J85T94 NSICC

Honorable Bob Corker Chairman Committee on Foreign Relations United States Senate Washington, DC 20510

Dear Mr. Chairman:

In response to your letter dated August 22, 2016, requesting access to documents related to the FBI's investigation of former Secretary of State Clinton's use of a private email server during her tenure, and based on a parallel request from the Department of State, the FBI authorizes Senate Foreign Relations Committee access to these documents currently maintained in the Office of Senate Security for review by Committee members and appropriately-cleared staff in light of the Committee's Department of State oversight responsibilities. These documents are non-public and contain classified and other sensitive material. For that reason, these materials may not be further disseminated or disclosed, in part or in full, without obtaining the FBI's concurrence. The production of these materials does not waive any applicable privilege.

Throughout the documents the FBI has redacted personally identifiable information as appropriate. Additionally, at the request of the original classification authority, certain materials were provided only to the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence.

Sincerely,

Jason V. Herring \checkmark Acting Assistant Director Office of Congressional Affairs

- Honorable Benjamin L. Cardin Ranking Member Committee on Foreign Relations United States Senate Washington, DC 20510
- 1 Office of Senate Security United States Senate SVC-217 Washington, DC 20510

September I, 2016

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U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

AUG 1 6 2016

The Honorable Paul D. Ryan Speaker United States House of Representatives Washington, DC 20515

Dear Mr. Speaker:

I am writing in response to your letter to Director Comey dated July 6, 2016 regarding the FBI's investigation of former Secretary of State Hillary Clinton's use of a private email server. As Director Comey said in his statement on July 5, 2016, due to intense public interest in the FBI's investigation into this matter, we believe it is important to address your questions and explain our recommendation as to the appropriate resolution of this investigation. For the same reasons, the FBI will be making a document production responding to your interest in this matter.

The FBI conducted this investigation, as it does all investigations, in a competent, honest, and independent way. We had an investigative team of agents and analysts supported by technical experts, lawyers, and others from several divisions in the FBI. The investigative team worked for close to a year conducting interviews, reviewing emails, and completing technical examinations of recovered equipment. In addition, the FBI's technical team conducted extensive analysis to understand what, if any, indications there might be of a compromise of Secretary Clinton's electronic devices by hostile actors.

After nearly a year of gathering and analyzing evidence from numerous sources, the FBI made a recommendation to the Department of Justice. Although the prosecutors make the ultimate decision about whether or not charges are appropriate based on the evidence, the FBI frequently makes recommendations and engages in conversations with the prosecutors regarding the appropriate resolution of an investigation, given the evidence. The fact that the FBI made a recommendation was not unusual; the fact that it was shared publicly was.

Our investigation looked at whether there was evidence that classified information was improperly stored or transmitted on Secretary Clinton's private email system, in violation of a federal statute (18 U.S.C. § 793) that makes it a felony to mishandle classified information either intentionally or in a grossly negligent way, or another statute (18 U.S.C. § 1924) that makes it a misdemeanor to knowingly remove classified information from appropriate systems or storage facilities. We also considered a statute (18 U.S.C. § 2071) making it illegal to willfully and unlawfully conceal, remove, or destroy a federal record. Ultimately, the FBI did not recommend prosecution based on an assessment of the facts and a review of how these statutes have been charged in the past.

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AUG 1 6 2016

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As the Director testified, cases prosecuted by the Department of Justice under the relevant statutes involved some combination of: (1) clearly intentional and willful mishandling of classified information; (2) significant quantities of material exposed in such a way as to support an inference of intentional misconduct; (3) indications of disloyalty to the United States; or (4) efforts to obstruct justice. One or more of these factors was present in the cases against David Petraeus, Sandy Berger, and Bryan Nishimura. For instance, Petraeus provided vast quantities of highly sensitive, compartmented information that he knew to be classified to a person without an appropriate clearance or a need to know the information and, when confronted, he lied to the FBI. Berger removed clearly marked, highly classified information from the National Archives by secreting the documents in his clothing. These cases included clear evidence of knowledge and intent which illustrates an important distinction from what the FBI found in this investigation. Nishimura, a Naval Reservist stationed in Afghanistan, removed hundreds of marked classified documents, without authorization, from classified U.S. military information systems, which he then placed onto several personally-owned, unauthorized devices. Nishimura later lied to investigators about onto which devices he had placed classified information, and destroyed a large quantity of classified material he had maintained in his home. Despite this destruction, a subsequent search of his house recovered 256 marked classified documents which he was not authorized to store.

The fact that Secretary Clinton received emails containing "(C)" portion markings is not clear evidence of knowledge or intent. As the Director has testified, the FBI's investigation uncovered three instances of emails portioned marked with "(C)," a marking ostensibly indicating the presence of information classified at the Confidential level. In each of these instances, the Secretary did not originate the information; instead, the emails were forwarded to her by staff members, with the portion-marked information located within the email chains and without header and footer markings indicating the presence of classified information. Moreover, only one of those emails was determined by the State Department to contain classified information. There has been no determination by the State Department as to whether these three emails were classified at the time they were sent.

Title 18, United States Code, Section 793 on its face makes it a felony to cause national defense information to be removed, lost, stolen, or destroyed through gross negligence. Even at the time the statute was passed, there were concerns in Congress about the inclusion of this provision. Additionally, with respect to this statute, there are concerns about the constitutional implications of criminalizing such conduct without requiring the government to prove that the person knew he or she was doing something wrong, which is reflected in the Justice Department's history in charging this specific subsection of the statute (18 U.S.C. § 793(f)). Our understanding is the Department has only charged one person with mishandling national defense information through gross negligence in the 99-year history of the statute, and in that case, the charge was dismissed when the defendant pled guilty to making false statements in violation of 18 U.S.C. § 1001. Moreover, in that case, there were indications of espionage and disloyalty to the United States. As the Director testified, he believed that to prosecute Secretary Clinton or others within the scope of the investigation for gross negligence would be inconsistent with how the Department has interpreted and applied the statute since Congress enacted it.

As the Director stated, the FBI did find evidence that Secretary Clinton and her colleagues were extremely careless in their handling of certain, very sensitive, highly classified information. The term "extremely careless" was intended to be a common sense way of describing the actions of Secretary Clinton and her colleagues. The Director did not equate "extreme carelessness" with the legal standard of "gross negligence" that is required by the statute. In this case, the FBI assessed that the facts did not support a recommendation to prosecute her or others within the scope of the investigation for gross negligence.

However, as the Director has explained, this is not to say that someone else who engaged in this type of conduct would face no consequences for handling classified information in a similar manner if they were still a government employee. For example, there are potentially severe administrative consequences within the FBI for security violations involving the mishandling of classified information, up to and including security clearance revocation and dismissal. The FBI is in the process of providing relevant information to other U.S. Government agencies to conduct further security and administrative reviews they deem appropriate for their respective employees. If someone who engaged in this type of conduct applied for a job at the FBI, the facts and circumstances surrounding this activity would be a significant factor in a suitability review for a security clearance and employment at the Bureau.

Thank you for your continued interest in this important matter, and, as always, we appreciate your continued support for the men and women of the FBI. The production of documents related to this matter will be provided under separate cover letter consistent with required protocols for the transmission of classified documents.

Sincerely,

Jason V. Herring Acting Assistant Director Office of Congressional Affairs ALL FBI INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 04-26-2017 BY J37J85T94 NSICC

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Federal Bureau of Investigation

Washington, D.C. 20535-0001

November 18, 2016

Honorable Jason Chaffetz Chairman Committee on Oversight and Government Reform United States House of Representatives Washington, DC 20515

Dear Mr. Chairman:

This is in response to your letter dated October 20, 2016 posing questions arising from your review of materials provided to the Committee on October 14, 2016 related to the FBI's investigation of former Secretary Clinton's use of a personal e-mail server. Specifically, you requested information concerning allegations that the State Department asked the FBI to downgrade the classification of a specific email in exchange for consideration of an FBI resource request.

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In response to your request, enclosed are documents referring or related to the request from the State Department to review the classification of emails. This material is provided to the Committee in furtherance of its oversight activities. These materials are non-public and contain classified and other sensitive material. For that reason, these materials may not be further disseminated or disclosed, in part or in full, without obtaining the FBI's concurrence. The production of these materials does not waive any applicable privilege.

Sincerely,

Jason V. Herring Acting Assistant Director Office of Congressional Affairs

Enclosure

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 Honorable Elijah E. Cummings Ranking Member Committee on Oversight and Government Reform United States House of Representatives Washington, DC 20515

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ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 04-26-2017 BY J37J85T94 NSICC

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FD-302a(Rev. 10-6-95)

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription _ 08/07/2015

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On August 7, 2015, for the FBI's Records Management Division provided the enclosed internal FBI communications, classified SECRET//NOFORN, referencing three (3) documents passed to the FBI by the State Department on or about April 29, 2015. Insofar as the State Department had identified FBI equities contained in these documents, they were sent to the FBI for classification review.

The first email, dated September 16, 2015 was found to contain no classified information and released in full without redactions. The second email, dated October 17 and 18, 2012 was redacted and released in part using the B7(A) and B7(C) FOIA exemptions. The third email, dated October 3, 2012, was redacted and released in part based on the B1 FOIA exemption insofar as it contained non-FBI classified information.

The enclosure to this record is classified SECRET//NOFORN.

Investigation on 08/07/2015 at

at Washington, D.C.

By <u>SA</u>

File#

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

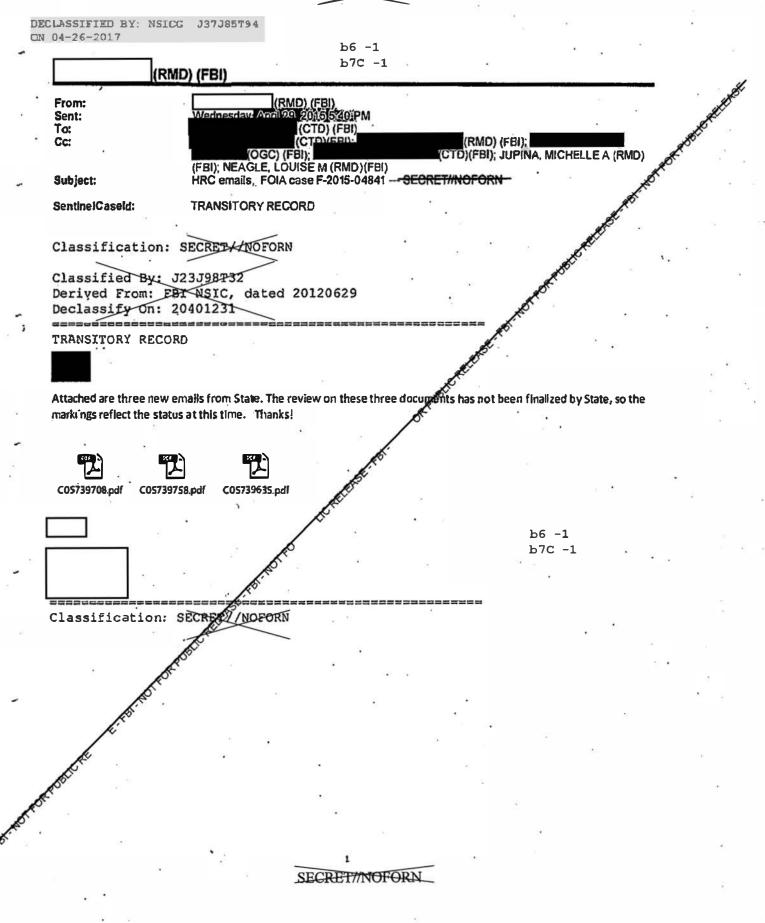
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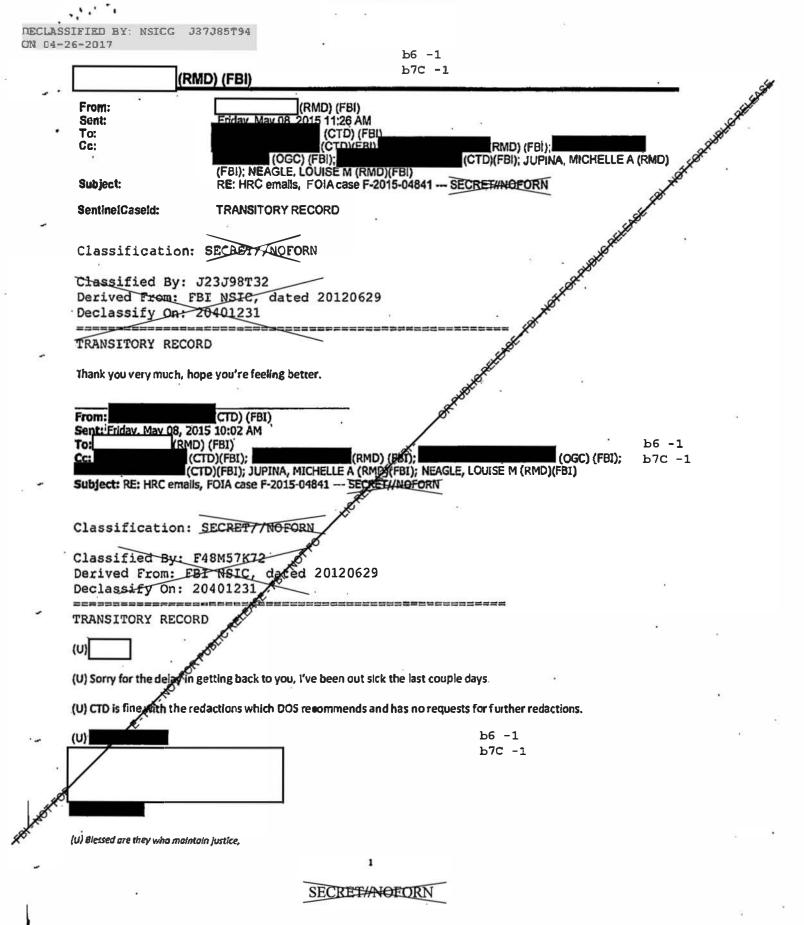
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ALL FBI INFLRMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 04-26-2017 BY J37J85T94 NSICC

November 18, 2016

Honorable Jason Chaffetz Chairman Committee on Oversight and Government Reform United States House of Representatives Washington, DC 20515

Dear Mr. Chairman:

This is in response to your letter dated October 20, 2016 posing questions arising from your review of materials provided to the Committee on October 14, 2016 related to the FBI's investigation of former Secretary Clinton's use of a personal e-mail server. Specifically, you requested information concerning allegations that the State Department asked the FBI to downgrade the classification of a specific email in exchange for consideration of an FBI resource request.

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Federal Bureau of Investigation

Washington, D.C. 20535-0001

November 18, 2016

Honorable Charles E. Grassley Chairman Committee on the Judiciary United States Senate Washington, DC 20510

Dear Mr. Chairman:

This is in response to your letter dated October 18, 2016 posing questions arising from your review of materials provided to the Committee on October 14, 2016 related to the FBI's investigation of former Secretary Clinton's use of a personal e-mail server. Specifically, you requested information concerning allegations that the State Department asked the FBI to downgrade the classification of a specific email in exchange for consideration of an FBI resource request.

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Sincerely,

Jason V. Herring Acting Assistant Director Office of Congressional Affairs

Enclosure

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1- Honorable Patrick J. Leahy Ranking Member Committee on the Judiciary United States Senate Washington, DC 20510

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ALL FBI INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 04-26-2017 BY J37J85T94 NSICC

November 18, 2016

Honorable Charles E. Grassley Chairman Committee on the Judiciary United States Senate Washington, DC 20510

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U.S. Department of Justice



Federal Bureau of Investigation

Washington, D.C. 20535

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ALL FBI INFURMATION CONTAINED

July I, 2016

The Honorable Charles E. Grassley Chairman Committee on the Judiciary United States Senate Washington, DC 20510

Dear Chairman Grassley:

This is in response to your letter dated February 4, 2016 regarding the use of nondisclosure agreements in the FBI's investigation of former Secretary of State Clinton's use of a private e-mail server.

The FBI asked the limited number of personnel working on this matter to sign "Case Briefing Acknowledgment" forms and, after receipt of your letter, an addendum to that form, which reminded them of their whistleblower rights and clarified that the form did not override or supersede those rights. These forms served two purposes: to maintain an official record of all persons knowledgeable of this highly sensitive investigation, and to remind individuals of their obligations to protect classified and sensitive information. No one refused to sign the acknowledgement or raised any questions or concerns about doing so.

This was not a unique circumstance; depending on the sensitivities in a given investigation, FBI employees may from time to time be asked to sign similar forms. In addition, all FBI employees sign standard form non-disclosure agreements (NDA) upon obtaining their security briefings, and they remain bound by those agreements throughout the course of their employment. The standard form NDA includes the requisite language to address all legal requirements, including whistleblower protections. The FBI is taking steps to ensure that future reminders to employees of non-disclosure obligations similarly contain language acknowledging whistleblower protections. Copies of both the Case Briefing Acknowledgement form and the addendum are enclosed. We appreciate your continued support for the FBI and its mission. If you have questions concerning this or other matters, please contact this office by calling (202) 324-5051.

Sincerely,

Stephen D. Kelly

Assistant Director Office of Congressional Affairs

Enclosure

The Honorable Patrick J. Leahy Ranking Member Committee on the Judiciary United States Senate Washington, DC 20510 ALL FBI INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 04-26-2017 BY J37J85T94 MSICC

July 1, 2016

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The Honorable Charles E. Grassley Chairman Committee on the Judiciary United States Senate Washington, DC 20510

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Dep. Director ____

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1 - FBI ExecSec, Room 6147 → 1 - Ms. Beers

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Sincerely,

Stephen D. Kelly Assistant Director Office of Congressional Affairs

Enclosure

The Honorable Patrick J. Leahy Ranking Member Committee on the Judiciary United States Senate Washington, DC 20510