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Judicial Watch: State Department Asked Hillary Clinton to Delete Copies of Classified Benghazi Emails Four Months Ago

SEPTEMBER 17, 2015

Update 9/18/15:

The Associated Press **reported** the State Department's redaction of classified material from a Benghazi-related email on Friday, May 22. The State Department's efforts to retrieve and delete the email were not publicly known until now.

(Washington, DC) – Judicial Watch today released Obama administration **correspondence** containing a letter from Under Secretary of State for Management Patrick F. Kennedy asking Hillary Clinton's lawyer to destroy all electronic copies of a classified email found in records Clinton decided to turn over to the State Department six months before. Clinton's attorney, David Kendall, rejected the request as Congress and other investigators had demanded electronic records be preserved. The correspondence also shows Hillary Clinton has ignored a demand to turn over all electronic copies of the approximately 55,000 pages of emails she previously returned in paper form. The correspondence was **disclosed** by the State and Justice Departments in a Judicial Watch Freedom of Information Act (FOIA) lawsuit in which Judicial Watch is asking a court to issue a preservation order to protect any emails Clinton has yet to turn over, including those emails in which she and her lawyers unilaterally determined to be personal. (*Judicial Watch v. U.S. Department of State* (1:12-cv-02034))

The May 22, 2015, letter from Kennedy to Clinton attorney Kendall reads in part:

I am writing in reference to the following e-mail that is among the approximately 55,000 pages that were identified as potential federal records

and produced on behalf of former Secretary Clinton to the Department of State on December 5, 2014: E-mail forwarded by Jacob Sullivan to Secretary Clinton on November 18, 2012 at 8:44 pm (Subject: Fw: FYI- Report of arrests -possible Benghazi connection).

Please be advised that today the above referenced e-mail, which previously was unclassified, has been classified as “Secret” pursuant to Section 1.7(d) of Executive Order 13526 in connection with a review and release under the Freedom of Information Act (FOIA). In order to safeguard and protect the classified information, I ask – consistent with my letter to you dated March 23 2015 – that you, Secretary Clinton and others assisting her in responding to congressional and related inquiries coordinate in taking the steps set forth below. A copy of the document as redacted under the FOIA is attached to assist you in your search.

Once you have made the electronic copy of the documents for the Department, please locate any electronic copies of the above-referenced classified document in your possession. If you locate any electronic copies, please delete them. Additionally, once you have done that, please empty your “Deleted Items” folder.

The Kennedy letter shows that the State Department knew that Clinton had classified material on her email system two months before it was disclosed publicly on **July 23**, when Congress was alerted to the issue by the **inspector general** of the intelligence community.

Clinton’s attorney responds several weeks later, on June 15 – saying it would not be “prudent” to delete the email. David Kendall writes:

This will also confirm that, pursuant to your request, we have deleted all electronic copies of this document, with the following exception. I have received document preservation requests pertaining to the 55,000 pages of e-mails from the House of Representatives Select Committee on Benghazi, the Inspector General of the State Department, and the Inspector General of the Intelligence Community (DNI). I have responded to each preservation request by confirming to the requestor that I would take reasonable steps to preserve these 55,000 pages of former Secretary Clinton’s e-mails in their present electronic form. I therefore do not believe it would be prudent to delete, as you request, the above-referenced e-mail from the master copies or the PST file that we are preserving.

Clinton's attorney suggests the information may yet be deleted. Kendall's June letter states:

Once the document preservation requests referenced above expire, we will proceed to make the requested deletions. This present arrangement would cover the single document recently classified "Secret". Should there be further reclassifications during the Department's FOIA [Freedom of Information Act] review of former Secretary Clinton's e-mails, it also would cover any such additional documents.

The State Department also disclosed a July 2, 2015, letter from the chief records officer at National Archives and Records Administration (NARA), Paul M. Wester Jr., to Margaret P. Grafeld, deputy assistant secretary for global information services at the State Department, that shows Clinton never turned over the records as requested. Webster again requests State Department action on the Clinton records:

I would like to reiterate our request that the Department contact the representatives of former Secretary Clinton to secure the native electronic versions with associated metadata of the approximately 55,000 hard copy pages of emails ...

Despite this request, the State Department seems never to have followed up with Clinton for the data. On **August 6**, the State Department reported to the court in another Judicial Watch lawsuit that it had demanded that Mills and Abedin "return all copies of potential federal records in your possession." The State Department did not provide any correspondence demanding Mrs. Clinton return all copies of potential federal records.

A letter by Kennedy on September 14, 2015, to FBI Director James B. Comey, shows that the State Department only recently again tried to obtain electronic copies of the Clinton records:

On May 22, 2015, the Department requested from former Secretary Clinton's attorney, David Kendall, that he provide an electronic copy of the approximately 55,000 pages identified as potential federal records and produced on behalf of former Secretary Clinton to the Department of State on December 5, 2014. ... On June 15, 2015, Mr. Kendall replied that, pursuant to my request, he would "copy onto a disc the electronic version of the emails previously produced in hard copy to the Department on December 5, 2014." ... Before Mr. Kendall could provide that disc to the Department, however, we understand that the FBI obtained the relevant electronic media. Accordingly, we request from the FBI an electronic copy of the approximately 55,000 pages identified as potential federal records and produced on behalf of former

Secretary Clinton to the Department of State on December 5, 2014. This request is in accordance with counsel we have received from the National Archives and Records Administration (NARA).

Additionally, to the extent the FBI recovers any potential federal records that may have existed on the server at various points in time in the past, we request that you apprise the Department insofar as such records correspond with Secretary Clinton's tenure at the Department of State. Because of the Department's commitment to preserving its federal records, we also ask that any recoverable media and content be preserved by the FBI so that we can determine how best to proceed.

As with the email gaps uncovered by Judicial Watch this week, this latest find raises questions about whether Clinton told the truth last month when she **declared**, under penalty of perjury, "I have directed that all of my emails on clintonemail.com in my custody that were or potentially were federal records be provided to the Department of State..." Clinton made this statement in response to a court order Judicial Watch obtained in other FOIA litigation.

"Judicial Watch exposed a cover-up with criminal implications. Why on Earth would John Kerry's State Department tell Mrs. Clinton to delete classified Benghazi records before finding out where and how this material had been disclosed?" said Judicial Watch President Tom Fitton. "That the State Department asked Clinton's lawyer to destroy federal records shows a level of disdain for the rule of law that goes beyond the pale. These letters should have been disclosed to more than one federal judge. The evident contempt and obstruction of justice by both Mrs. Clinton and the Obama administration will be brought to the attention the courts."

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