

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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<http://oversight.house.gov>

September 6, 2016

Mr. Treve Suazo
Chief Executive Officer
Platte River Networks
5700 Washington Street
Denver, CO 80216

Dear Mr. Suazo:

The Committee is investigating former Secretary of State Hillary Clinton's use of a personal, non-secure email server for official government business, and whether doing so implicated various laws regarding accessing and storing classified national security information and federal records. Pursuant to the investigation, the Committee received and examined records from a criminal investigation by the Federal Bureau of Investigation, including summaries of the FBI's interviews with Platte River Networks (PRN) employee(s). As you know, PRN maintained Secretary Clinton's third private email server, which she used to conduct official State Department business.

The FBI interview summaries describe a timeline of events that, if accurate, raises the possibility that PRN employee(s) violated federal statutes that prohibit destroying evidence and obstructing a congressional investigation. The summaries also raise questions as to whether Secretary Clinton's legal team instructed PRN employees to do so.

In brief, the summaries of the FBI's interviews with a PRN engineer show that within days of a conference call with Secretary Clinton's lawyers, the engineer deleted archives of Secretary Clinton's emails, despite knowing those records were covered by preservation orders and a subpoena from Congress.¹ The same interview summaries show that days after the conference call, a work ticket was created at PRN relating to the administration of Secretary Clinton's email server. The contents of the ticket were not provided.² Forensic analysis of Secretary Clinton's private email servers by the FBI revealed that Secretary Clinton had not

¹ Letter from Jason V. Herring, Acting Assistant Director for Congressional Affairs, Fed. Bureau of Investigation, to Jason Chaffetz, Chairman, H. Comm. on Oversight & Government Reform (Aug. 16, 2016).

² *Id.*

turned over all her work-related emails,³ despite her claims to the contrary,⁴ meaning some responsive records may have been included in the archives that PRN deleted. Due to the PRN engineer's use of a program called Bleachbit, however, the FBI was apparently unable to retrieve those archives.⁵ Bleachbit is designed to "shred the files to prevent recovery."⁶

When asked about the conference call between Secretary Clinton's attorneys and the PRN engineer, the engineer refused to answer the FBI's questions and asserted a legal privilege.⁷ The FBI's investigative file is not clear as to whether the engineer asserted the attorney-client privilege, the Fifth Amendment privilege, or both.

The following is a more detailed sequence of these events, based on an examination of the unclassified portions of the FBI's investigative file, investigative letters sent by the Committee dating back to 2012, and the House Select Committee on Benghazi's final report:

September 20, 2012	The Committee wrote to Secretary Clinton to request seven categories of information related to the terrorist attacks in Benghazi. ⁸ The letter instructed the Secretary "to produce all responsive documents in [her] possession, custody, or control, whether held by [her] or [her] past or present agents, employees, and representatives acting on [her] behalf." ⁹ The letter stated that "'document' means any written . . . matter of any nature . . . including . . . electronic mail (e-mail) . . ." ¹⁰
December 13, 2012	The Committee wrote to Secretary Clinton to ask whether she or any of her senior staff used personal email to conduct official business, to remind her of federal records laws, and to request the Department's policies and procedures regarding the use of non-official email accounts to conduct official business. ¹¹

³ E.g., *Oversight of the State Department: Hearing Before the H. Comm. on Oversight & Government Reform*, 114th Cong. (July 7, 2016) (statement of James Comey) ("We found work related emails, thousands, that were not returned. . . . There's no doubt that there were work related emails that were removed electronically from the email system.").

⁴ E.g., Statement of Hillary Clinton at the United Nations (Mar. 10, 2015) ("I responded right away and provided all my emails that could possibly be work related.") available at <http://time.com/3739541/transcript-hillary-clinton-email-press-conference/>.

⁵ Letter from Jason V. Herring, Acting Assistant Director for Congressional Affairs, Fed. Bureau of Investigation, to Jason Chaffetz, Chairman, H. Comm. on Oversight & Government Reform (Aug. 16, 2016).

⁶ BLEACHBIT.ORG, <https://www.bleachbit.org/news/bleachbit-stifles-investigation-hillary-clinton> (last accessed Aug. 27, 2016).

⁷ *Id.*

⁸ Letter from Jason Chaffetz, Chairman, Subcomm. on Nat'l Sec., Homeland Defense, and Foreign Operations, H. Comm. on Oversight & Government Reform, to Hillary Clinton, Sec'y of State (Sept. 30, 2012) (on file with the Committee).

⁹ *Id.*

¹⁰ *Id.*

¹¹ Letter from Darrell Issa, Chairman, H. Comm. on Oversight & Government Reform, to Hillary Clinton, Sec'y of State (Dec. 13, 2012) (on file with the Committee).

December 2, 2014	The Select Committee on Benghazi (Benghazi Committee) wrote to Secretary Clinton's attorney, David Kendall, to request all official records in the Secretary's custody. ¹²
March 3, 2015	The Benghazi Committee sent preservation orders to Secretary Clinton and the domain name registrar and internet service providers used by Secretary Clinton. ¹³
March 4, 2015	The Benghazi Committee issued a subpoena to Secretary Clinton for four categories of documents related to the Benghazi attacks. ¹⁴
March 9, 2015	PRN staff learned of the preservation order. ¹⁵
March 10, 2015	Secretary Clinton held a press conference about her use of private email servers while at the State Department, during which she made numerous claims subsequently refuted by the FBI, including that she "provided all [her] emails that could possibly be work related." ¹⁶
March 25, 2015	Secretary Clinton's team, including attorneys David Kendall and Cheryl Mills, held a conference call with the PRN engineer who maintains Secretary Clinton's server. In subsequent interviews with the FBI, the PRN engineer refused to answer questions about that call, asserting either a Fifth Amendment or attorney-client privilege. ¹⁷
March 31, 2015	A work ticket was created at PRN. The FBI did not provide any additional information about the work ticket. ¹⁸
March 31, 2015	On or by March 31, the PRN engineer from the March 25, 2015, conference call deleted copies of Clinton's entire email archive. The engineer used a software program called Bleachbit to digitally shred the archives several times, ensuring they can never be recovered. ¹⁹

¹² See H. SELECT COMM. ON BENGHAZI, 114TH CONG., REPORT OF THE SELECT COMMITTEE ON THE EVENTS SURROUNDING THE 2012 TERRORIST ATTACK IN BENGHAZI at app. J-3 (2016).

¹³ See *id.*

¹⁴ See *id.*

¹⁵ Letter from Jason V. Herring, Acting Assistant Director for Congressional Affairs, Fed. Bureau of Investigation, to Jason Chaffetz, Chairman, H. Comm. on Oversight & Government Reform (Aug. 16, 2016).

¹⁶ Statement of Hillary Clinton at the United Nations (Mar. 10, 2015) available at <http://time.com/3739541/transcript-hillary-clinton-email-press-conference/>.

¹⁷ Letter from Jason V. Herring, Acting Assistant Director for Congressional Affairs, Fed. Bureau of Investigation, to Jason Chaffetz, Chairman, H. Comm. on Oversight & Government Reform (Aug. 16, 2016).

¹⁸ *Id.*

¹⁹ BLEACHBIT.ORG, <https://www.bleachbit.org/news/bleachbit-stifles-investigation-hillary-clinton> (last accessed Aug. 27, 2016). According to its website, Bleachbit includes "advanced features such as shredding files to prevent recovery, [and] wiping free disk space to hide traces of files deleted by other applications . . .

This timeline of events raises questions as to whether the PRN engineer violated federal statutes that prohibit destruction of evidence and obstruction of a congressional investigation, among others, when the engineer erased Secretary Clinton's email contrary to congressional preservation orders and a subpoena.²⁰ The sequence of events leading up to the destruction of Secretary Clinton's emails—the conference call, the work ticket, the use of Bleachbit, and PRN's subsequent refusal to discuss the conference call with the FBI—raises questions about whether Secretary Clinton, acting through her attorneys, instructed PRN to destroy records relevant to the then-ongoing congressional investigations.

To help the Committee understand the actions of PRN employees with respect to Secretary Clinton's records, please provide the following documents and information as soon as possible, but no later than 5:00 p.m. on September 13, 2016:

1. Whether the PRN engineer asserted the attorney-client privilege or the Fifth Amendment privilege in response to FBI questioning about the March 25, 2015, conference call.
2. If the PRN engineer asserted a Fifth Amendment privilege in response to FBI questioning about the March 25, 2015 conference call:
 - a. The name of the attorney who advised the PRN engineer not to answer the question on that basis;
 - b. Whether between March 1 and March 31, 2015 the attorney who advised the PRN engineer not to answer the question was privy to information regarding the conference call or the destruction of records.
3. If the PRN engineer asserted the attorney-client privilege in response to FBI questioning about the March 25, 2015, conference call: the names and affiliation of each attorney; the names and affiliation of each represented party; the scope of the privilege; and whether the individual interviewed by the FBI who asserted the privilege was an attorney;
4. An explanation of the basis for the PRN engineer's assertion of the privilege in response to FBI questioning about the March 25, 2015, conference call, including the nature of the privileged conversation(s) and general subject matter of the call;
5. The names of all participants in the March 25, 2015, conference call and the names of each PRN employee made aware of the contents of the conference call after it took place;
6. A copy of each work ticket created in March of 2015 referring or relating to Secretary Clinton's email server or Clinton Executive Services Corporation (CESC);

.” Following the public disclosure of the use of Bleachbit to destroy records, the software developer touted that the program stifled the FBI's investigation. *Id.*

²⁰ See, e.g., 18 U.S.C. §§ 1001, 1505, and 1519.

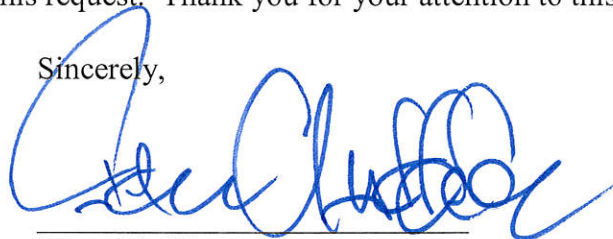
7. A copy of all non-disclosure agreements referring or relating to Clinton's email server or CESC signed by a PRN employee;
8. The names, titles, and (if applicable) security clearances of each PRN employee involved in the administration of Secretary Clinton's private email server or any other work on behalf of CESC, and each such employee's responsibilities with regard to Secretary Clinton's server and CESC;
9. All documents and communications between or among PRN employees referring or relating to Secretary Clinton's server or CESC; and
10. A list of all non-PRN email addresses any PRN employee used in connection with Clinton's email server or CESC.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

When producing documents to the Committee, please deliver production sets to the Majority staff in Room 2157 of the Rayburn House Office Building and the Minority staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

Please have your staff contact Liam McKenna and Tristan Leavitt of my staff at (202) 225-5074 with any questions about this request. Thank you for your attention to this matter.

Sincerely,



Jason Chaffetz
Chairman

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

Enclosure

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents 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 Committee.
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 Committee's 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"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF 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.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.
6. Documents produced to the Committee 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 Committee's 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 Committee 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. 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.
14. 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.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. 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.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. 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, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. 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 Committee.

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.
7. The term "employee" means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.