

**IN UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

FREEDOM WATCH, INC.

Appellant,

v.

NATIONAL SECURITY AGENCY  
CENTRAL INTELLIGENCE AGENCY  
U.S. DEPARTMENT OF STATE  
U.S. DEPARTMENT OF DEFENSE

Appellees.

Court of Appeals No. 14-5174

**IN UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

FREEDOM WATCH, INC.

Plaintiff/Appellant,

v.

NATIONAL SECURITY AGENCY  
CENTRAL INTELLIGENCE AGENCY  
U.S. DEPARTMENT OF STATE  
U.S. DEPARTMENT OF DEFENSE

Defendants.

Civil Action No. 1:12-cv-01088

**PLAINTIFF/APPELLANT/APPELLANT’S MOTION FOR DISCOVERY  
AND ORDER TO SHOW CAUSE WHY DEFENDANT U.S.  
DEPARTMENT OF STATE AND FORMER SECRETARY OF STATE  
HILLARY CLINTON SHOULD NOT BE HELD IN CONTEMPT**

Plaintiff/Appellant/Appellant, by counsel, respectfully moves the U.S. Court

of Appeals for the District of Columbia Circuit (“Court of Appeals”) to remand this case back to the U.S. District Court for the District of Columbia (“District Court”) the development of recently discovered evidence, order discovery to be taken by the Plaintiff/Appellant/Appellant into the failure of the U.S. Department of State to produce any documents in response to the Plaintiff/Appellant/Appellant’s Freedom of Information Act (FOIA) request and the recent disclosures that the Secretary of State at the time, Hillary Clinton, conducted U.S. Government business through a private, unofficial electronic mail (email) account housed and maintained on a computer file server (“server”) located in Hillary Clinton’s private home. This resulted in the U.S. Department of State not producing documents and other records to Plaintiff/Appellant/Appellant Freedom Watch in response to the subject FOIA Request. Indeed, in responding to this FOIA Request and suppressing responsive documents, the U.S. State Department and its then Secretary Hillary Clinton lied to the lower court, as they claimed that there were no responsive documents from the Secretary’s office and thus summary judgment should be granted. Relying on these false representations, the lower court granted summary judgment. This worked a fraud on the Courts and amounts to obstruction of justice.

In addition, the Plaintiff/Appellant/Appellant, by counsel, respectfully moves the Court pursuant to Rule 34(1), Rule 45, and Rule 64 of the Federal Rules

of Civil Procedure (“FRCP”) to issue a subpoena to former Secretary of State Hillary Clinton for the seizure and production for inspection and electronic copying the computer file server used to store and process her private electronic “email” messages located at her home, to preserve and make available all documents relating to this matter. This is necessary as there is a substantial likelihood that records will otherwise be destroyed, if they have not already been destroyed.

In addition, the Plaintiff/Appellant/Appellant, by counsel, respectfully moves the Court to enter an order to show cause why Hillary Clinton and her Chief of Staff while at the U.S. Department of State, Cheryl Mills, as the responsible officials managing the U.S. Department of State under Hillary Clinton’s watch should not be held in criminal contempt for the flagrant and willful defiance of the Defendant to federal law and lying to the Court. Hillary Clinton was in charge of the Department and responsible for its decisions at that time. Hillary Clinton’s Chief of Staff Cheryl Mills was directly involved and assisted in these abuses, and Cheryl Mills, and a former White House counsel who defended President Bill Clinton during his impeachment for lying under oath.. *See*, “**Will Hillary Clinton Get The David Petraeus Treatment?**,” IBD Editorials, Investors Business Daily, March 4, 2015, attached as Exhibit A.

**PLAINTIFF/APPELLANT/APPELLANT'S MEMORANDUM OF LAW IN  
SUPPORT OF PLAINTIFF/APPELLANT/APPELLANT'S MOTION FOR  
DISCOVERY AND FOR ORDER TO SHOW CAUSE WHY THE  
DEFENDANT SHOULD NOT BE HELD IN CONTEMPT**

**I. INTRODUCTION**

Revelations of a private, off-the-books, email system set up by Hillary Clinton approximately nine (9) days before she was sworn in as U.S. Secretary of State were uncovered and reported by the New York Times. *See*, “**Hillary Clinton Used Personal Email Account at State Dept., Possibly Breaking Rules,**” Michael Schmidt, The New York Times, March 2, 2015, attached as Exhibit B.

In this case, on Friday June 1, 2012 the New York Times published an article entitled "Obama Order Sped Up Wave of Cyberattacks Against Iran" written by David E. Sanger. This article released classified information concerning secret attacks upon Iran's computer systems and infrastructure undertaken remotely to the American public, and it was obvious from the context that the Obama administration had publicly revealed classified information intentionally.

The untimely leak of the clandestine operation was obviously intended by some within the Obama Administration to harm Israel in continuing those efforts (which would be ineffective once revealed) and to manipulate the Presidential election by trumpeting foreign policy activity by the Obama Administration.

The U.S. Department of State produced documents, though heavily and inappropriately redacted. Nevertheless, the U.S. Department of State search did

not find all responsive documents... because they were hidden from scrutiny in the basement of Hillary Clinton's personal home on a private computer file server managing her private, off-the-books email account. Departmental personnel could not locate responsive documents intentionally and knowingly kept hidden within Hillary Clinton's personal email system for the very purpose of Hillary Clinton preventing their discovery.

## **II. STANDARD OF REVIEW**

The actions requested are at the discretion of the Court both in terms of the relief requested in the Court of Appeals to remand for proceedings in the District Court and in terms of the relief requested from the District Court.

## **III. STATEMENT OF THE CASE AND FACTS**

Criminal convictions and jail terms were imposed upon former Governor Bob McDonnell and Maureen McDonnell in the U.S. District Court for the Eastern District of Virginia, Case No. 3:14-cr-12 (Richmond Division) for selling official government services (there, simply announcing that they liked a health supplement product by Star Scientific and opining that they thought it was a good product) in return for gifts and loans from a businessman Jonnie Williams. The McDonnells have appealed the question of whether this was selling governmental action.

In the same manner, on information and belief, <sup>1</sup> then Secretary of State Hillary Clinton negotiated and/or arranged through emails sent and received through her own private, off-the-books email system recently disclosed by The New York Times for actions beneficial to wealthy foreign interests, probably including oil-rich Iran and Iran's allies and opponents of Israel. *See*, “**Using Private Email, Hillary Clinton Thwarted Record Requests**,” Michael S. Schmidt and Amy Chozik, New York Times, March 3, 2015, attached as Exhibit C.

Payments in return for various actions were then disguised as “donations” to allegedly non-profit foundations controlled by herself, her husband Bill and/or daughter Chelsea<sup>2</sup> and/or enormous speaking fees paid to Bill Clinton and/or Hillary Clinton in return for favorable consideration by the U.S. State Department and/or the Obama White House or advocacy by Hillary Clinton within the Obama

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<sup>1</sup> Inquiries by a Freedom Watch attorney on how to apply for a grant for organizers of a biodiesel project in economically depressed areas of the Bahamas, to employ workers left unemployed by a blight that destroyed citrus groves to grow *Jatropha* trees for biodiesel, revealed that the Clinton foundations do not make grants nor will they entertain grant applications. The Clinton foundations retain discretion in the nature of multi-billion dollar slush funds to spend billions of dollars of donations in whatever manner pleases Hillary Clinton's immediate family. Forgoing the accountability and transparency of a formal grant application competition process, the Clinton foundations allowed and will for decades allow Hillary Clinton to travel the world in style.

<sup>2</sup> To qualify as non-profit under the Internal Revenue Code, an organization must both be designed and established to meet non-profit requirements but also operated in fact as non-profit.

administration of the interests of foreign governments and foreign or international companies.

Plaintiff/Appellant/Appellant's belief in this hypothesis is also bolstered by revelations that the "Bill, Hillary & Chelsea Clinton Foundation" received millions from foreign governments including Qatar, a prominent backer of Hamas. *See*, **"Foreign donations to foundation raise major ethical questions for Hillary Clinton,"** The Washington Post, Jennifer Rubin, February 18, 2015, attached as Exhibit D; **"Foreign Government Gifts to Clinton Foundation on the Rise,"** The Wall Street Journal, James V. Grimaldi and Rebecca Ballhaus, February 17, 2015.

As Jennifer Rubin for The Washington Post reports: "The foundation of course provides luxury travel for Hillary Clinton and her spouse, a high-visibility platform and access to mega-donors. She is beholden in a meaningful sense to its donors."

The United Arab Emirates gave between \$1 million and \$5 million in 2014, and the German government contributed between \$100,000 and \$250,000. (Like France, German companies do extensive business with the Middle East.) The Kingdom of Saudi Arabia has given between \$10 million and \$25 million since the foundation was created in 1999. Qatar's government has donated between \$1 million and \$5 million. Oman has given the foundation between \$1 million and \$5

million. Prior to last year, its donations fell in the same range.

As Secretary of State, Hillary Clinton had power and authority to directly affect in powerful ways the legal and international circumstances affecting many countries and their business interests, both by direct government action and through diplomatic pressure. Granting waivers to countries and companies doing business with Iran directly benefits Iran, the international oil industries, and many countries interested in supporting Iran.

Plaintiff/Appellant/Appellant's belief in this hypothesis is bolstered by the past revelation of similar schemes orchestrated by Hillary Clinton for her husband then President Bill Clinton to sell seats on international trade mission sponsored by the U.S. Department of Commerce in return for campaign donations, waivers allowing the sale to China by Loral Hughes Electronics of guidance technology for intercontinental ballistic missiles capable of delivering nuclear warheads from China onto the continental United States, sales of sleep-overs in the Lincoln Bedroom of the White House, and the like.

The undersigned attorney Larry Klayman created the public interest organization Judicial Watch largely because he discovered in the course of his private law practice in international trade that Hillary Clinton as First Lady in the Clinton administration was selling, through U.S. Commerce Secretary Ron Brown, seats on U.S. Government trade missions in return for large campaign donations to



the Clinton/Gore 1996 re-election campaign. Klayman's clients in the industry discovered that they were not invited on trade missions that campaign donors were. Judicial Watch's cases including *Judicial Watch v. Department of Commerce*, 34 F.Supp.2d 28 (December 22, 1998) (Case No. 95-0133) and *Judicial Watch v. Department of Commerce*, (Case Nos. 96-2747 and 97-2416), in the same District Court, eventually uncovered massive schemes to launder campaign donations through strawmen such as Buddhist monks sworn to poverty, illegal campaign donations from overseas interests, and other corruption on a massive scale. The testimony under oath of Ron Brown's former business partner Nolanda Hill before the Honorable Royce C. Lamberth documented that within the Clinton administration, Hillary Clinton was the architect of all of these schemes to sell access and official actions in return for campaign donations.

Here, in this case, Plaintiff/Appellant/Appellant Freedom Watch, Inc. filed a FOIA request to several agencies including the U.S. Department of State, asking in the public interest for:

- 1) Any and all information that refers or relates to the New York Times article entitled "Obama Order Sped Up Wave of Cyberattacks Against Iran" by David E. Sanger on Friday, June 1, 2012, and which information was provided and leaked to Mr. Sanger and the New York Times;
- 2) Any and all information that refers or relates in any way to information released to David E. Sanger and/or made available to him;

- 3) The names of the persons, employers and job titles, and addresses of those who “leaked” the above information to David E. Sanger
- 4) Communications with The White House and/or Office of the President and/or Vice President that refer or relate in any way to the “leaked” information and/or the reasons for “leaking” the information;
- 5) Any and all information that refer or relate to the decision to “leak” the above previously classified information;
- 6) Any and all information that refers or relates to government agencies deciding to investigate who “leaked” the above previously classified information.

#### **IV. ARGUMENT**

Plaintiff/Appellant/Appellant disputes – as a genuine issue of material fact – whether the U.S. Department of State “has conducted a ‘search reasonably calculated to uncover all relevant documents.’” *Steinberg v. U.S. Dept. of Justice*, 23 F.3d 548, 551 (D.C. Cir. 1994).

It cannot be disputed that the Defendant did not search the emails most likely to be both responsive to the FOIA request and most important in significance. The Defendant submitted affidavits that were false. This fraud on the court caused the court to grant summary judgment.

Therefore, revelations that the Secretary of State – the highest relevant official in the U.S. Government very likely to be involved in granting waivers –

maintained an email system off-the-books which admittedly was not searched demonstrates that an adequate search was not performed in response to the Plaintiff/Appellant/Appellant's FOIA request.

Furthermore, the elaborate efforts to which then Secretary of State Hillary Clinton resorted to conceal the emails run through the unofficial server raise an inference that the emails are vulnerable to destruction if not immediately preserved. The purpose of setting up an email system apart from the U.S. Department of State's official email system was to conceal the emails. Therefore, this motivation and efforts support the inference that the emails are likely to be lost if not promptly preserved. Here, unlike emails sought from the Internal Revenue Service of Lois Lerner, the placement of an email system outside of government greatly limits the possibility of reconstructing emails from back-up servers.

Discovery and depositions into the nature of an agency's search is proper, especially with regard to those agency officials or employees that the agency has identified as having knowledge by proffering their Declaration. See, *Judicial Watch, Inc. v. Dep't of Commerce* (Partial Summary Judgment Decision), 34 F.Supp.2d 28, 29-41 (D.D.C.1998); *Judicial Watch, Inc. v. Dep't of Commerce* (Final Merits Decision), 337 F.Supp.2d 146, 156-57 (D.D.C. 2004).

As in *Association of Am. Physicians & Surgeons v. Clinton*, 997 F.2d 898 (D.C. Cir. 1993), discovery is appropriate and necessary. As there, the Court relied

on declarations given by the Defendants/Appellees and granted summary judgment without allowing the Plaintiff/Appellant/Appellant to take discovery into the nature of the FOIA search. In that case, the U.S. Court of Appeals for the District of Columbia Circuit, this very same Court, reversed the District Court's holding that denying Plaintiff/Appellant the opportunity to take discovery was improper. This Court remanded the case and ordered expedited discovery, and the same outcome is appropriate here.

5 U.S.C. § 552(4)(B) tells us that the District Court “may examine the contents of such agency records *in camera*.” This suggests the usual process of discovery, with discovery disputes being actively resolved by the trial Court. This suggests that challenged documents may be reviewed *in camera*. Otherwise, where would these documents to be examined *in camera* come from? Without discovery, the District Court could never know about these documents.

Moreover, 5 U.S.C. § 552(4) considers in many places that a District Court may order production of documents improperly withheld. For example,

“Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, ...”

5 U.S.C. § 552(4)(F)(i). Thus, Congress expected that documents would come to

the District Court's attention that had been improperly withheld. How could documents improperly withheld become known without a process of discovery?

Hillary Clinton has publicly proclaimed<sup>3</sup> that she wants the U.S. State Department to release all of her private emails that are relevant – although she has those in her own possession. Thus the statement is disingenuous, a dodge to divert attention to the State Department concerning emails in her own possession, but it still represents Hillary Clinton's public consent and agreement to the relief requested here by the Plaintiff/Appellant/Appellant.

The computer file "server" technically handling Hillary Clinton's illegal, unofficial, off-the-books email is located in Hillary Clinton's private home,<sup>4</sup> reportedly in her basement.<sup>5</sup>

Federal Rules of Appellate Procedure ("FRAP") 12.1 authorizes the U.S. Court of Appeals to remand the case to the U.S. District Court for further proceedings when requested by motion and upon an indication that the U.S. District Court would either grant the motion or "that the motion raises a substantial issue" (*emphasis added*) even if the U.S. District Court might not grant the motion.

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<sup>3</sup> **"Hillary Clinton asks State to release emails: What you need to know,"** Dan Merica and Brianna Keilar, CNN.com, March 5, 2015, attached as Exhibit E.

<sup>4</sup> **"Hillary Clinton's Custom Email Based on Server Near Her Home: Setup raises questions of security and transparency,"** Danny Yadron and Rebecca Ballhaus, The Wall Street Journal, March 5, 2015, attached as Exhibit F.

<sup>5</sup> **"Hillary Clinton and the Chamber of E-mail Secrets,"** Alexandri Petri, The Washington Post, March 5, 2015, attached as Exhibit G.

### FRAP Rule 12.1 Provides

(a) NOTICE TO THE COURT OF APPEALS. If a timely motion is made in the district court for relief that it lacks authority to grant because of an appeal that has been docketed and is pending, the movant must promptly notify the circuit clerk if the district court states either that it would grant the motion or that the motion raises a substantial issue.

(b) REMAND AFTER AN INDICATIVE RULING. If the district court states that it would grant the motion or that the motion raises a substantial issue, the court of appeals may remand for further proceedings but retains jurisdiction unless it expressly dismisses the appeal. If the court of appeals remands but retains jurisdiction, the parties must promptly notify the circuit clerk when the district court has decided the motion on remand.

Rule 41(b) of the Local Circuit Rules for the U.S. Circuit Court of Appeals for the District of Columbia Circuit authorizes or acknowledged the authority of the Court of Appeals to remand the case for further proceedings in the U.S. District Court, after which a new notice of appeal may be noticed as set forth under Rule 41(b).

FRCP Rule 45 authorizes the Court to issue a subpoena for the production and inspection of tangible things: “A command in a subpoena to produce documents, electronically stored information, or tangible things requires the responding person to permit inspection, copying, testing, or sampling of the materials.” Rule 45(a)(1)(D).

## V. CONCLUSION

Under the circumstances at issue, Plaintiff/Appellant/Appellant respectfully requests the Court of Appeals to remand the case to the District Court with instructions to issue a subpoena that the server in Hillary Clinton's possession which handled Hillary Clinton's illegal, unofficial, off-the-books emails while Secretary of State be produced for electronic copying by computer specialists to preserve their contents. This can be handled in propriety and fairness to both sides by the Court engaging a computer expert answerable to the District Court as its expert and/or witness, at the parties' expense, to then create a copy of the server's contents and under the orders of the Court locate those emails that are responsive and keep confidential those emails unresponsive to the Plaintiff/Appellant/Appellant's FOIA requests and other FOIA requests and Congressional subpoenas.

Plaintiff/Appellant/Appellant respectfully requests that the Court of Appeals also issue instructions to authorize discovery by the Plaintiff/Appellant into the responsiveness of the State Department's search for documents responsive to the FOIA request.

Plaintiff/Appellant further requests that the Court issue an order to show cause and hold an evidentiary hearing why Hillary Clinton as then Secretary of State and Cheryl Mills should not be held in contempt for knowingly hiding responsive documents and obstructing justice.

Dated: March 5, 2015

Respectfully requested,

/s/ Larry Klayman

Larry Klayman, Esq.

Florida Bar No. 246220

2775 NW 49th Ave, Suite 205-345

Ocala, Florida 34483

(310) 595-0800

leklayman@gmail.com

Attorney for Plaintiff/Appellant



**CERTIFICATE OF CONSULTATION**

The Defendants/Appellees responded that they do not consent to this motion.

/s/ Larry Klayman

Larry Klayman, Esq.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this March 5, 2015 a true and correct copy of the foregoing Plaintiff/Appellant's Motion filed electronically using CM/ECF and served upon the following:

Via CM/ECF:

Catherine H. Dorsey, Attorney  
Email: catherine.dorsey@usdoj.gov  
U.S. Department of Justice  
(DOJ) Office of the Attorney General  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Matthew M. Collette, Attorney  
Email: Matthew.Collette@usdoj.gov  
U.S. Department of Justice  
(DOJ) Civil Division, Appellate Staff  
Firm: 202-514-2000  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Attorneys for Defendants

Respectfully Submitted,

/s/ Larry Klayman

Larry Klayman, Esq.  
Florida Bar No. 246220  
2775 NW 49th Ave, Suite 205-345  
Ocala, Florida 34483

(310) 595-0800

leklayman@gmail.com

Attorney for Plaintiff/Appellant

# Exhibit A

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# Will Hillary Clinton Get The David Petraeus Treatment?

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**S** **candal:** Which is worse — keeping classified information in a personal journal at home or doing government business and transmitting classified data on a private email account managed from the Clinton family home?

This adds a new level of premeditated secrecy and deceit to the actions of the presumptive 2016 Democratic presidential nominee.

It also adds a new level of hypocrisy to the most transparent administration in history's pursuit of former CIA Director and commander of American forces in Iraq and Afghanistan, Gen. David Petraeus.

Petraeus, who had an extramarital affair with biographer Paula Broadwell, pleaded guilty, after a lengthy government investigation, to a misdemeanor charge of mishandling classified information.

Petraeus had kept in his home a set of eight "Black Books" containing his notes and observations about his experiences, as well as classified information including conversations he had with the president, diplomats, and national security officers. Petraeus provided Broadwell access to these documents but, as far as we know, the information went no further.

So why has no criminal investigation been launched into Hillary Clinton's use of a private email account linked to a home-based Internet service, presumably vulnerable to foreign hackers, used to send emails also possibly containing classified information to people who shouldn't have access to it?

Did Hillary's emails contain discussions of the operational plans to take out Osama bin Laden? Did they discuss national security issues, policies toward foreign governments, or perhaps things like our all-too-secret deal with Iran regarding its nuclear program? And who did they go to? What emails did she send to or regarding foreign donors to the Clinton Foundation?

We have commented before on the Clintons' self-serving and reckless penchant for secrecy and Hillary Clinton's false claim that she provided "unfettered" access to her files and records to the State Department's Accountability Review Board (ARB) investigating her department's performance and actions.

As we noted, former Deputy Assistant Secretary Raymond Maxwell — one of four placed on administrative leave and then reinstated after Benghazi — told former

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CBS investigative reporter Sharyl Attkisson of a weekend operation in a State Department basement office to filter out and hide any damaging documents from ARB that might put the State Department and its top diplomat, Hillary Clinton, in a bad light.

Maxwell told Attkisson that his stack of documents to review included pre-attack telegrams and cables between our embassy in Tripoli and the State Department in Washington, D.C. During that weekend, two high-ranking State Department officials visited the document-filtering operation to check on its progress.

Full Page | << First | < Previous | Page: 1 2 | Next > | Last >>

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# Exhibit B

**The New York Times** | <http://nyti.ms/1EcfJjU>

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POLITICS

# Hillary Clinton Used Personal Email Account at State Dept., Possibly Breaking Rules

By MICHAEL S. SCHMIDT MARCH 2, 2015

WASHINGTON — Hillary Rodham Clinton exclusively used a personal email account to conduct government business as secretary of state, State Department officials said, and may have violated federal requirements that officials' correspondence be retained as part of the agency's record.

Mrs. Clinton did not have a government email address during her four-year tenure at the State Department. Her aides took no actions to have her personal emails preserved on department servers at the time, as required by the Federal Records Act.

It was only two months ago, in response to a new State Department effort to comply with federal record-keeping practices, that Mrs. Clinton's advisers reviewed tens of thousands of pages of her personal emails and decided which ones to turn over to the State Department. All told, 55,000 pages of emails were given to the department. Mrs. Clinton stepped down from the secretary's post in early 2013.

Her expansive use of the private account was alarming to current and former National Archives and Records Administration officials and government watchdogs, who called it a serious breach.

"It is very difficult to conceive of a scenario — short of nuclear winter — where an agency would be justified in allowing its cabinet-level head officer to solely use a private email communications channel for the conduct of government business," said Jason R. Baron, a lawyer at Drinker Biddle & Reath who is a former director of litigation at the National Archives and

Records Administration.

A spokesman for Mrs. Clinton, Nick Merrill, defended her use of the personal email account and said she has been complying with the “letter and spirit of the rules.”

Under federal law, however, letters and emails written and received by federal officials, such as the secretary of state, are considered government records and are supposed to be retained so that congressional committees, historians and members of the news media can find them. There are exceptions to the law for certain classified and sensitive materials.

Mrs. Clinton is not the first government official — or first secretary of state — to use a personal email account on which to conduct official business. But her exclusive use of her private email, for all of her work, appears unusual, Mr. Baron said. The use of private email accounts is supposed to be limited to emergencies, experts said, such as when an agency’s computer server is not working.

“I can recall no instance in my time at the National Archives when a high-ranking official at an executive branch agency solely used a personal email account for the transaction of government business,” said Mr. Baron, who worked at the agency from 2000 to 2013.

Regulations from the National Archives and Records Administration at the time required that any emails sent or received from personal accounts be preserved as part of the agency’s records.

But Mrs. Clinton and her aides failed to do so.

How many emails were in Mrs. Clinton’s account is not clear, and neither is the process her advisers used to determine which ones related to her work at the State Department before turning them over.

“It’s a shame it didn’t take place automatically when she was secretary of state as it should have,” said Thomas S. Blanton, the director of the National Security Archive, a group based at George Washington University that advocates government transparency. “Someone in the State Department deserves credit for taking the initiative to ask for the records back. Most of the time it takes the threat of litigation and embarrassment.”



Mr. Blanton said high-level officials should operate as President Obama does, emailing from a secure government account, with every record preserved for historical purposes.

“Personal emails are not secure,” he said. “Senior officials should not be using them.”

Penalties for not complying with federal record-keeping requirements are rare, because the National Archives has few enforcement abilities.

Mr. Merrill, the spokesman for Mrs. Clinton, declined to detail why she had chosen to conduct State Department business from her personal account. He said that because Mrs. Clinton had been sending emails to other State Department officials at their government accounts, she had “every expectation they would be retained.” He did not address emails that Mrs. Clinton may have sent to foreign leaders, people in the private sector or government officials outside the State Department.

The revelation about the private email account echoes longstanding criticisms directed at both the former secretary and her husband, former President Bill Clinton, for a lack of transparency and inclination toward secrecy.

And others who, like Mrs. Clinton, are eyeing a candidacy for the White House are stressing a very different approach. Jeb Bush, who is seeking the Republican nomination for president, released a trove of emails in December from his eight years as governor of Florida.

It is not clear whether Mrs. Clinton’s private email account included encryption or other security measures, given the sensitivity of her diplomatic activity.

Mrs. Clinton’s successor, Secretary of State John Kerry, has used a government email account since taking over the role, and his correspondence is being preserved contemporaneously as part of State Department records, according to his aides.

Before the current regulations went into effect, Secretary of State Colin L. Powell, who served from 2001 to 2005, used personal email to communicate with American officials and ambassadors and foreign leaders.

Last October, the State Department, as part of the effort to improve its record keeping, asked all previous secretaries of state dating back to Madeleine K. Albright to provide it with any records, like emails, from their time in office for preservation.

“These steps include regularly archiving all of Secretary Kerry’s emails to ensure that we are capturing all federal records,” said a department spokeswoman, Jen Psaki.

The existence of Mrs. Clinton’s personal email account was discovered by a House committee investigating the attack on the American Consulate in Benghazi as it sought correspondence between Mrs. Clinton and her aides about the attack.

Two weeks ago, the State Department, after reviewing Mrs. Clinton’s emails, provided the committee with about 300 emails — amounting to roughly 900 pages — about the Benghazi attacks.

Mrs. Clinton and the committee declined to comment on the contents of the emails or whether they will be made public.

The State Department, Ms. Psaki said, “has been proactively and consistently engaged in responding to the committee’s many requests in a timely manner, providing more than 40,000 pages of documents, scheduling more than 20 transcribed interviews and participating in several briefings and each of the committee’s hearings.”

A version of this article appears in print on March 3, 2015, on page A1 of the New York edition with the headline: Clinton Used Personal Email at State Dept..

# Exhibit C

**The New York Times** | <http://nyti.ms/1CtyT5H>

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POLITICS

# Using Private Email, Hillary Clinton Thwarted Record Requests

By MICHAEL S. SCHMIDT and AMY CHOZICK MARCH 3, 2015

WASHINGTON — In 2012, congressional investigators asked the State Department for a wide range of documents related to the attack on the United States diplomatic compound in Benghazi, Libya. The department eventually responded, furnishing House committees with thousands of documents.

But it turns out that that was not everything.

The State Department had not searched the email account of former Secretary of State Hillary Rodham Clinton because she had maintained a private account, which shielded it from such searches, department officials acknowledged on Tuesday.

It was only last month that the House committee appointed to investigate Benghazi was provided with about 300 of Mrs. Clinton's emails related to the attacks. That was shortly after Mrs. Clinton turned over, at the State Department's request, some 50,000 pages of government-related emails that she had kept on her private account.

It was one of several instances in which records requests sent to the State Department, which had no access to Mrs. Clinton's emails, came up empty.

In 2013, Nitasha Tiku, then a reporter for Gawker, filed a Freedom of Information Act request, seeking all correspondence on Mrs. Clinton's private email account between her and Sidney Blumenthal, a close adviser and onetime staff member in the Clinton White House. Some of those emails had already spilled into public view and been reported in the news media. But the State Department told Gawker that it could find no records responsive to the

request, Gawker reported.

Mrs. Clinton's aides on Tuesday sought to play down the significance of her exclusive use of a personal email account for State Department business. But an examination of records requests sent to the department reveals how the practice protected a significant amount of her correspondence from the eyes of investigators and the public.

Mrs. Clinton's exclusive use of personal email for her government business is unusual for a high-level official, archive experts have said. Federal regulations, since 2009, have required that all emails be preserved as part of an agency's record-keeping system. In Mrs. Clinton's case, her emails were kept on her personal account and her staff took no steps to have them preserved as part of State Department record.

In response to a State Department request, Mrs. Clinton's advisers, late last year, reviewed her account and decided which emails to turn over to the State Department.

The State Department says it will now search the 50,000 emails Mrs. Clinton provided in response to Freedom of Information and congressional requests.

The White House, in its first response to the news, said it frowned on the practice of officials using their personal email accounts.

"What I can tell you is that very specific guidance has been given to agencies all across the government, which is specifically that employees of the Obama administration should use their official email accounts when they're conducting official government business," the White House spokesman, Josh Earnest, said. "However, when there are situations where personal email accounts are used, it is important for those records to be preserved consistent with the Federal Records Act."

But political groups and news organizations said requests for records related to Mrs. Clinton had repeatedly gone unanswered.

In December, The Associated Press said its FOIA requests for records related to Mrs. Clinton's tenure at the State Department, the oldest of which was submitted in March 2010, were not answered. In addition to requesting

Mrs. Clinton's schedules, The A.P. asked for correspondence related to Huma Abedin's special arrangement to serve as a top adviser to Mrs. Clinton and consult for private clients. "We have not received any documents yet, despite the promised deadlines, and we are evaluating the situation," said Erin Madigan White, spokeswoman for The A.P.

Conservative groups have filed numerous requests for information about Mrs. Clinton as she prepares for a possible presidential run. Citizens United is expecting a court ruling on Friday about a lawsuit the group filed last year after the State Department would not disclose flight records that would have shown who accompanied Mrs. Clinton on overseas trips. The group had intended to cross reference the agency's flight manifests with the donors who contributed to the Bill, Hillary & Chelsea Clinton Foundation.

The FOIA request was just one of 16 appeals the group has made to the State Department since May that have gone unfulfilled. Those requests also included specific correspondence from Mrs. Clinton and her closest aides, including Cheryl D. Mills and Ms. Abedin.

America Rising, an anti-Clinton "super PAC," has submitted a dozen FOIA requests for State Department records beginning last June.

Requests included correspondence between Ms. Mills and Clinton Foundation leadership and Ms. Abedin's communication with members of Teneo, a private consultancy partly run by Doug Band, a longtime aide to former President Bill Clinton. Ms. Abedin had a special arrangement that allowed her to work at the State Department and be paid by Teneo, which offers strategic advice to major global corporations. America Rising also requested Mrs. Clinton's schedule during the annual Clinton Global Initiative gatherings in New York.

In all cases, the State Department acknowledged receipt of the FOIA requests and assigned case numbers but did not produce any of the requested documents. "Unfortunately, Clinton's own political calculation and desire for secrecy, as evidenced by her exclusive use of personal email accounts while at State, is preventing an open process and full, fair review of her time there," said Jeff Bechdel, a spokesman for America Rising.

State Department officials have previously said they handle thousands of records requests and try to respond as quickly as possible. On Tuesday, Alec Gerlach, a spokesman for the department, defended the agency, and stressed that it was working diligently to comply with the voluminous requests for information from the Republican-controlled House.

Adrienne Elrod, a spokeswoman for Correct the Record, a pro-Clinton group, called the issue of Mrs. Clinton's using personal email "manufactured controversy."

In a written statement, the National Archives said it had "reached out to the State Department to ensure that all federal records are properly identified and managed in accordance with the Federal Records Act and that controls and procedures are in place to manage records effectively in the future."

Mrs. Clinton's aides have said her use of private email was not out of the ordinary, pointing to the fact that former Secretary of State Colin Powell also used a personal email account, before the current regulations went into effect. But since 2009, said Laura Diachenko, a National Archives and Records spokeswoman, federal regulations have stated that "agencies that allow employees to send and receive official electronic mail messages using a system not operated by the agency must ensure that federal records sent or received on such systems are preserved in the appropriate agency record-keeping system."

The rules are designed to ensure a contemporaneous record of government activity is being kept so it will be available to members of Congress, the news media, historians and ordinary citizens.

Secretary of State John Kerry uses a government email account, and his correspondence is preserved as part of the department's record-keeping system.

Nick Corasaniti contributed reporting.

A version of this article appears in print on March 4, 2015, on page A1 of the New York edition with the headline: Using Private Email, Clinton Thwarted Records Requests.

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# Exhibit D

## Right Turn

# Foreign donations to foundation raise major ethical questions for Hillary Clinton

By **Jennifer Rubin** February 18

In an extraordinary report that has not yet been fully digested, the [Wall Street Journal](#) [tells us](#) that the Bill, Hillary & Chelsea Clinton Foundation has received millions from foreign governments including Qatar, a prominent backer of Hamas:

The Clinton Foundation has dropped its self-imposed ban on collecting funds from foreign governments and is winning contributions at an accelerating rate, raising ethical questions as Hillary Clinton ramps up her expected bid for the presidency.

Recent donors include the United Arab Emirates, Saudi Arabia, Oman, Australia, Germany and a Canadian government agency promoting the Keystone XL pipeline. . . .

United Arab Emirates, a first-time donor, gave between \$1 million and \$5 million in 2014, and the German government—which also hadn't previously given—contributed between \$100,000 and \$250,000.

A previous donor, the Kingdom of Saudi Arabia, has given between \$10 million and \$25 million since the foundation was created in 1999. Part of

The Australian government has given between \$5 million and \$10 million, at least part of which came in 2014. It also gave in 2013, when its donations fell in the same range.

Qatar's government committee preparing for the 2022 soccer World Cup gave between \$250,000 and \$500,000 in 2014. Qatar's government had previously donated between \$1 million and \$5 million.

Oman, which had made a donation previously, gave an undisclosed amount in 2014. Over time, Oman has given the foundation between \$1 million and \$5 million. Prior to last year, its donations fell in the same range.

The foundation of course provides [luxury travel](#) for Hillary Clinton and her spouse, a high-visibility platform and access to mega-donors. She is beholden in a meaningful sense to its donors. No presidential candidate can justify a conflict of interest of this magnitude; it is not merely the *appearance* of conflict but *actual* conflict of interest.

If former Virginia governor Bob McDonnell (R) might go to jail for receiving lavish gifts for a donor for whom he made a few phone calls, what would be the remedy if, once in office, Hillary Clinton extended her office not only to make calls but also to approve policy and financial arrangements worth billions back to these countries? How will the American people ever be satisfied we are getting her undivided loyalty? No matter how much she protests, her judgment would be questioned as influenced by gratitude toward the foundation's wealthy patrons. And, of course, a president cannot recuse himself or herself from dealings, so there is no practical way to avoid the conflict.

It is bad enough when Clinton takes gobs of money in speaking fees [from Goldman Sachs](#), oil and chemical companies, and other titans of industry — although that, too, raises the potential for conflicts of interest. But a foreign government should never have any claim

on the loyalty of a U.S. president, which is why foreign donations directly to a campaign are illegal. We cannot give her a pass simply because her entity is a “foundation,” not a PAC or campaign entity.

There is no conceivable way, I would suggest, that the foundation can keep the foreign monies if she wants to run for president. It is unseemly in the extreme and raises potential for liability down the road. But even if she were now to give all the money back, she has had use of the money in the meantime (the time value of money is something, after all). More important, her egregious judgment and untrammelled greed raise real questions about her priorities and ethics. Republicans should and will, I predict, pummel her with this. If the MSM is not entirely in her pocket, they will as well. Imagine if Jeb Bush’s education foundation took millions from Saudi Arabia. Surely there would be cries for him to withdraw from presidential pre-campaigning.

The irony here is that it is not the “Israel lobby” that buys influence. It is Arab states that lavishly fund [universities](#) and [think tanks](#). And now they are buying a president. I await with baited breath the outrage from Tom Friedman and the other Israel-bashers who accuse lawmakers of being [bought and paid for by Israel](#). Or do the rules just apply to Israel?

Hillary, give the money back. Or don’t run. You can’t keep the money and run.

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Jennifer Rubin writes the Right Turn blog for The Post, offering reported opinion from a conservative perspective.

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# Exhibit E



# Hillary Clinton asks State to release emails: \ need to know

Sign in

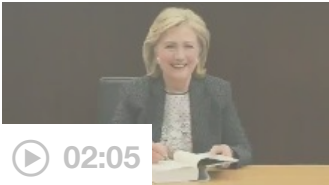
By **Dan Merica** and **Brianna Keilar**, CNN Senior Political Correspondent

🕒 Updated 9:01 PM ET, Thu March 5, 2015




## Hillary Clinton

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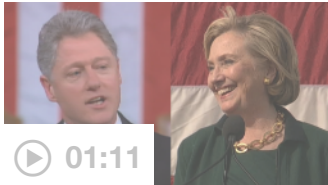
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Hillary Clinton: 'I want the public to see my email'



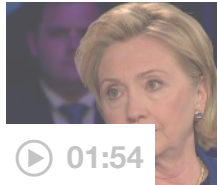
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Hillary Clinton's email fallout deepens



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Behold, the Clinton Echo



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Clinton: 'There a answers' on Ben

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## Story highlights

"I want the public to see my email," Clinton

**(CNN)**—Hillary Clinton broke her 48-hour silence over the use of her personal email account while she served as secretary of state with a late-night tweet Wednesday saying she wants "the public to see my

USCA Case #14-5174 Document #1549875 Filed: 03/05/2015 Page 39 of 56

AP: Server for her personal email address was housed at her home

email." But her response is unlikely to tamp down the pressure for answers as she faces the deepest scrutiny she's been under since leaving the government. "I asked State to release them," Clinton tweeted at 11:35 p.m. ET "They said they will review them for release as soon as possible."

The developments have escalated since the personal email account was first revealed Monday night, turning into both a political tug-of-war between Republicans and Democrats. The account raises questions -- even from within her party -- about transparency, security in the government and her future.

While the Clintons have plenty of allies, some on the left are using this opportunity as a sign to flag that the Democrats' front-runner in the 2016 campaign might still face some of the same organizational challenges and public relations gaffes her campaign had eight years ago.

As the story continues, here's a look at what you need to know.

### **Clinton: 'I want the public to see my email'**

Late Wednesday night, Clinton made her first public comments regarding the use of a private email server as opposed to a State Department one.

I want the public to see my email. I asked State to release them. They said they will review them for release as soon as possible.

— Hillary Clinton (@HillaryClinton) [March 5, 2015](#)

Marie Harf, a State Department spokeswoman, said the agency would review Clinton's request.

"The State Department will review for public release the emails provided by Secretary Clinton to the Department, using a normal process that guides such releases," Harf said. "We will undertake this review as quickly as possible; given the sheer volume of the document set, this review will take some time to complete."

A senior State Department official said on Thursday the department expects the review of Clinton's emails to "take several months."

Clinton tried to avoid the controversy. On Tuesday night the former secretary of state delivered a much-watched speech in Washington, but did not mention her emails, instead focusing on politics and teasing her likely presidential run.

After the State Department requested all secretaries of state send in their documents in 2014, Clinton and her team turned over 55,000 pages of emails to the State Department in December 2014. It is those emails that the former secretary of state wants released to the public.

But because the emails were housed on her private account, the process was overseen by Clinton and her aides, not archivists like it would have been if the email was housed on government servers.

A Clinton aide said that anything that pertained to her work there was given to State.

"So if she emailed with her daughter about flower arrangements for her wedding, that didn't go in," the aide said, "but if she emailed one of the 100 State Department officials she regularly corresponded with, State had it in their servers already and HRC's office replicated that to ensure it was all there."

The fact, though, that Clinton was in control of her own archives has concerned some archive and cybersecurity experts.

The issue has grown from one focused on Clinton to something the White House has had to answer to, as well. Josh Earnest, White House press secretary, said on Tuesday that the administration's policy "allows individuals to use their personal e-mail address as long as those e-mails are maintained and sent to the State Department, which if you ask Secretary Clinton's team, that's what they completed in the last month or two."

A senior White House official told CNN on Thursday that aides to the President have been in touch with Clinton's staff "to confirm facts and let them know what we planned to say."

## **Most, but not all, Democrats unite behind Clinton**

Most Democrats don't want to talk about Clinton's email controversy. She is the party's prohibitive presidential favorite in 2016 and she leads every poll about the race, making it hard for other Democrats to draw her ire or knock her and risk hurting their party's best chance at keeping the White House.

When CNN's Ted Barrett tried to ask congressional Democrats about the controversy, [the responses were far from eager](#).

"I'm not up to speed on it. I'm really not," said Sen. Jon Tester of Montana, who runs the Senate Democrats' campaign committee. "Check back."

"I don't know enough about what those rules are, honestly, to comment," said North Dakota Sen. Heidi Heitkamp.

When CNN tried to ask Massachusetts Sen. Elizabeth Warren, who some liberals are hoping will challenge Clinton for the 2016 nomination, a staffer shielded her and deliberately blocked the senator from answering. Warren climbed into an elevator without looking up.

Clinton supporters have vocally supported her. New York Rep. Steve Israel said, "Pretty soon we'll have a special investigative committee for every action that Hillary Clinton takes. There will be a special select committee on her breakfast, her lunch and her dinner and what she had in between."

But the email controversy has emboldened the wing of the Democratic party looking for a Clinton alternative in 2016.

Some early primary state Democrats told CNN's Peter Hamby that the controversy shows the need for a competitive primary that will help vet Clinton for the general election.



"The Democratic base that isn't wedded to her is nervous about it," said Deborah Arnie Arnesen, a progressive radio host in Concord, New Hampshire.

"These are problems that raise real leadership and transparency concerns, concerns that can be addressed in caucuses and primaries, but would go ignored in a coronation process," said [Boyd Brown, a Democratic National Committee member and former state legislator from South Carolina](#).

## Where do the laws stand?

The National Archives and Records Administration, the government agency that regulates the Federal Records Act, issued guidance in 2009 -- the same year Clinton took over at State -- that did not outlaw use of personal email accounts.

"Agencies that allow employees to send and receive official electronic mail messages using a system not operated by the agency must ensure that federal records sent or received on such systems are preserved in the appropriate agency recordkeeping system," the regulations said. It is unclear if there was a time requirement for the preservation of the emails.

Before 2009, according to Miriam Kleiman, spokeswoman for the National Archives, the agency did not "specifically address this issue."

"But agencies have always had the responsibility to manage federal records created or received outside of agency systems, including email on nonofficial systems," she added.

It wasn't until August 2013 -- after Clinton left State -- that the records administration [issued a bulletin](#) that personal email can only be used in "emergency situations," and when used, the emails "are captured and managed in accordance with agency record-keeping practices."

Late last year -- long after Clinton left the State Department -- President Barack Obama signed an update to the Federal Records Law to prohibit the use of private email accounts by government officials unless they copy or forward any such emails into their government account within 20 days.

Jason R. Baron, a lawyer at Drinker Biddle & Reath and the former director of litigation at the National Archives and Records Administration, said on Tuesday that it doesn't appear Clinton violated the law because "the Federal Records Act is amorphous enough."

Baron did say, however, that the exclusive use of a personal email system is out of the ordinary.

"I was in the government for 34 years and in my experience, as director of litigation, I cannot recall an instance where a high-level official -- or anyone -- solely used a private email account for the transaction of government business," he said.

## House committee subpoenas Clinton's Benghazi emails

The House select committee investigating the 2012 terrorist attack in Benghazi issued subpoenas for Clinton's email on Wednesday.

"The Select Committee on Benghazi today issued subpoenas for all communications of former

Secretary of State Hillary Clinton related to Libya and to the State Department for other individuals who have information pertinent to the investigation," said Jamal Ware, the committee's communications director, in a statement. "The committee also has issued preservation letters to Internet firms informing them of their legal obligation to protect all relevant documents."

...



## Potential 2016 presidential candidates

17 photos

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Rep. Trey Gowdy, chairman of the committee, told CNN on Wednesday, before the subpoenas were announced, that he was willing to do whatever it took to get the documents.

"We are going to use every bit of legal recourse at our disposal to make sure" the committee gets all the documents, Gowdy said. If that requires "sending legal resource to the secretary herself, that is what we are going to do."

Democrats on the committee said Wednesday that they received "no notice" from Gowdy that the committee was preparing subpoenas for Clinton's documents.

"I did not want to believe it, but everything I've seen so far has led me to believe that this is an effort to go after Hillary Clinton. Period. And I think that's very very unfortunate," said Rep. Elijah Cummings, the top Democrat on the select committee.

A spokesman for Clinton did not respond to CNN questions about the subpoenas, but Clinton's team has been in contact with the committee.

After Gowdy said Clinton used multiple private email addresses at State, Clinton's lawyer David E. Kendall sent Republicans and Democrats on the House committee investigating Benghazi a statement on Wednesday morning refuting Gowdy's claim.

"Secretary Clinton used one email account when corresponding with anyone, from department officials to friends to family," Kendall wrote in an email that explained how after Clinton's email address was published in a 2013 Gawker story, "she changed the address on her account."

"At the time the emails were provided to the department last year this new address appeared on the copies as the 'sender,' and not the address she used as secretary," Kendall continued. "This address on the account did not exist until March 2013, after her tenure as secretary."

Committee Republicans stood by Gowdy's claim, however, and reacted to Clinton's tweet about releasing her emails on Thursday.

"The former secretary's tweet does not answer questions about why this was not done when she left office, the integrity of the emails while she controlled them, the scheme to conceal them, or the failure to provide them in logical course," said Jamal D. Ware, communications director for the Republicans on the committee. "Legitimate investigations do not consider partial records. And that is the point of the subpoena issued yesterday by the Benghazi Committee."

**Clinton isn't the first secretary to use personal email, but she is the first to use it**

By using a private email system, Clinton and her aides had access to all emails that would have been backed up by the government if she had used an official account.

While she is not the first secretary of state to use a private email address -- former Secretaries Colin Powell and Condoleezza Rice both had private emails -- Clinton is the first to exclusively use a private account. As opposed to Clinton, both Rice and Powell had and used an official government email address.

An aide to Rice told CNN on Thursday that the former secretary of state "rarely used email during her tenure at State" and "on the very rare occasion she did, her State email was the vehicle for official communication. She did not use personal email for official communication as secretary."

Rice's aide said her office received the 2014 request from State to send in documents but "had nothing to turn over" to the department.

Powell, however, did use personal email to communicate with staff at State, but also had an official account.

A senior aide from the State Department said "Secretary Powell wrote in his book about his efforts to bring the State Department into the email age. He writes about how he installed a personal laptop in his State Department office to use his personal email to connect with his principal assistants, ambassadors and foreign ministers."

State spokeswoman Harf said this week that "Secretary Kerry is the first secretary of state to rely primarily on a state.gov email account."

Kerry responded to the Clinton controversy while traveling in Saudi Arabia on Thursday by sarcastically downplaying the importance of the story compared to his current mission abroad to deal with Iran's nuclear program.

"I believe we have all the emails, all the ones that are state.gov which are appropriately in purview of the department," he said. "But let me check on that when I actually have time to pay attention to such an important issue when I get home."

## **GOP calls for more investigations**

Republicans wasted no time in jumping on an issue they see as a winning one. Their goal is to paint Clinton in the same way they painted her husband: A dishonest politician who pushes ethical boundaries and feels the rules don't apply to her.

The Republican National Committee sent the State Department Inspector General a letter on Thursday demanding an investigation into Clinton's use of private email. The letter, from John Phillippe, chief counsel at the RNC, questions whether Clinton violated "the requirement to archive emails that are federal records under the Federal Records Act."

"The American public deserves to know whether one of its top-ranking public official's actions violated federal law," the letter said. "With transparency and openness in government being one of President Obama's guiding principles, it is incumbent upon your office to determine the facts

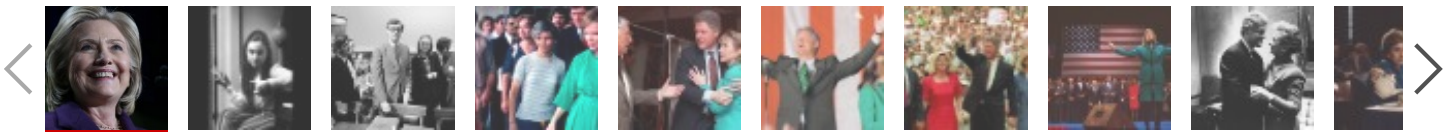


### Photos: Clinton's political career 49 photos

Former Secretary of State Hillary Clinton, pictured here on Tuesday, March 3, has become one of the most powerful people in Wash Here's a look at her life and career through the years.

1 of 49

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Chris Frates, Laura Koran and Susan Garraty contributed to this report.

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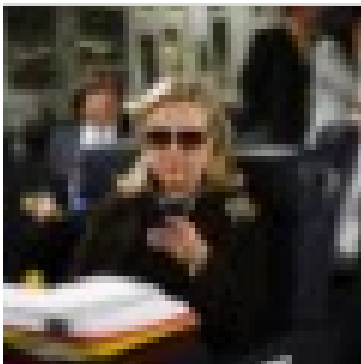
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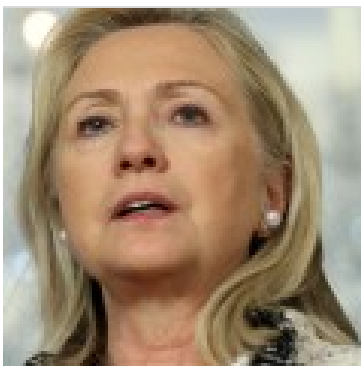
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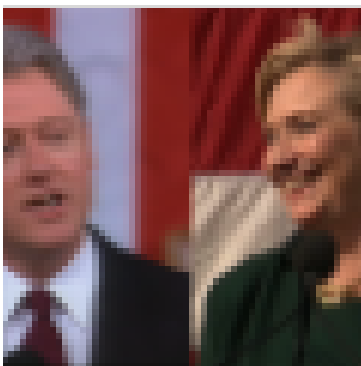
### Hillary Clinton



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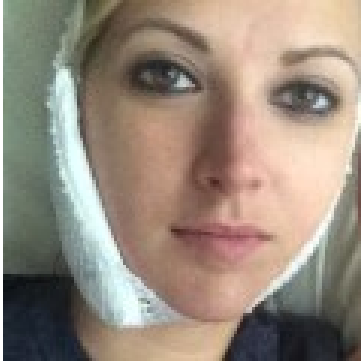


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### Team Clinton: 'Nothing nefarious' at State



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# Exhibit F



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<http://www.wsj.com/articles/hillary-clintons-custom-email-based-on-server-near-her-home-1425556802>

POLITICS AND POLICY

## Hillary Clinton's Custom Email Based on Server Near Her Home

Setup raises questions of security and transparency



Former Secretary of State Hillary Clinton speaks at the Emily's List 30th anniversary gala in Washington on Tuesday.

*PHOTO: YURI GRIPAS/REUTERS*

By **DANNY YADRON** And **REBECCA BALLHAUS**

March 5, 2015 7:00 a.m. ET

When Hillary Clinton received an email as secretary of state, the message landed at a server registered to her home in New York's Westchester County and physically located in the area, according to Internet registration records.

That set up underscores the lengths Mrs. Clinton and her inner circle went to create a communications system that they could more closely control.

For personal email, most individuals either use consumer services such as Google's Gmail or rent space on a technology company's data center.

A custom email system, along with Mrs. Clinton's use of a private email address as secretary of state, raises the question of what security measures she took to protect her communications while in office from 2009 until 2013. Those steps remain unclear.

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The

- State Department to Review Emails for Public Release (<http://blogs.wsj.com/washwire/2015/03/05/state-department-to-review-clintons-emails-for-public-release/?mod=capitaljournalrelatedbox>)
- Five Things About Hillary Clinton's Email System (<http://blogs.wsj.com/washwire/2015/03/05/five-things-things-about-hillary-clintons-email-system/?mod=capitaljournalrelatedbox>)
- Hillary Clinton's Emails Trouble Some Democrats (<http://www.wsj.com/articles/house-panel-subpoenas-hillary-clintons-personal-emails-1425510872?mod=capitaljournalrelatedbox>)
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- (<http://blogs.wsj.com/law/2015/03/03/hillary-clintons-emailing-practices-fall-in-legal-gray-area/?mod=capitaljournalrelatedbox>) Clinton Seen Launching Presidential Bid in April (<http://www.wsj.com/articles/hillary-clinton-seen-launching-presidential-bid-in-april-1425254392?mod=capitaljournalrelatedbox>)

private system also meant that government officials would have had to go through the former cabinet member—and likely 2016 Democratic presidential candidate—herself to access her email, whether to check for hackers or in the case of a subpoena or records request.

The unusual arrangement for such a high-ranking official was first reported by the Associated Press. The Wall Street Journal confirmed those findings by consulting with computer security experts, including Christopher Davis, founder of Hyas Technology, which researches who controls servers and Internet addresses used in computer intrusions.

Mr. Davis, along with many other technology professionals, has access to old records linked to domain names across the Internet. Those records show that “clintonemail.com,” the domain name used by Mrs. Clinton, was run out of a server in or near Chappaqua, N.Y., where the Clintons own a home.

Mrs. Clinton's use of a private email account for official business as secretary of state, disclosed this week, has become a point of controversy as she prepares a likely presidential campaign.

Mrs. Clinton was under no legal requirement during her time in office to use a government email account, under regulations put in place in 2009. The department,

though, was obligated to preserve her email records.

The State Department didn't obtain such records until it asked for them in late 2013, after which Mrs. Clinton turned over 55,000 pages of emails, the department has said.

Mrs. Clinton's email practices raise questions about transparency, the adequacy of her record preservation and about how much of her correspondence as secretary of state could be accessed by open records requests.

They also raise security questions at a time when computer intrusions are in the news. The inbox of the U.S.'s top diplomat would be a treasure trove for foreign spies and mischievous hackers. Federal agencies deploy teams to try to keep these people out of government email accounts.

Mrs. Clinton's office didn't respond to an inquiry Wednesday about her use of a private email server. The State Department has said it has no indication that Mrs. Clinton sent classified information through email.

Late Wednesday night, Mrs. Clinton tweeted: "I want the public to see my email. I asked State to release them. They said they will review them for release as soon as possible."

Cybersecurity experts were mixed in their assessment of the security risks raised by a private email system.

Some said fears of such risks had been overblown, given the security lapses in some government systems. Those include a recent breach of the State Department system by hackers last year and internal leaks from government officials, such as former Army private Bradley Manning and former National Security Agency employee Edward Snowden.

"No system is 100% secure," said Peter Singer, a strategist at the New America Foundation. While Mrs. Clinton, in setting up her own email server, may not have had access to the level of resources afforded a government agency or a major technology company, he said, "on the other hand, by the way, both those have been hacked."

Alan Paller, director of research for SANS Institute, a cybersecurity research group, said using a government email account would have carried the disadvantage of being an obvious target for hackers. "People know that's where to look," he said. The State

Department is under "more constant attack," he said.

Paul Vixie, who founded a Bay Area cybersecurity firm, Farsight Security, said that if Mrs. Clinton hired someone with the appropriate level of skill to set up her server, it would have been more secure than using a government email account.

"Nothing is completely wizard-proof, but if you do a good job you can raise the costs of any attacker to a point where it's probably not worth their while to break in," he said.

Some experts were more skeptical of Mrs. Clinton's choice.

With a private email server, "she's on her own," said Christopher Soghoian, a technologist at the American Civil Liberties Union. "We don't know if she herself was running her email server or if she had someone she was paying to do it. But we would imagine they don't have the skill and resources the State Department and [National Security Agency] do."

The government has faced its own challenges in securing email accounts. Last month, The Wall Street Journal reported that after three months of trying, the State Department had yet to expunge hackers linked to Russia from its unclassified email system.

The Internet connection that Mrs. Clinton's computer server used was registered to a man named Eric Hoteham, whom the Journal and the AP couldn't locate. The name is similar, however, to that of Eric Hothem, a longtime Clinton aide who currently works at J.P. Morgan Chase & Co. in Washington, D.C. Mr. Hothem couldn't be reached for comment Wednesday.

Other domains linked to the clintonemail.com network include mail.president.clinton.com, printer.presidentclinton.com and wjcoffice.com. Former President Bill Clinton's full initials are WJC.

**Write to** Danny Yadron at [danny.yadron@wsj.com](mailto:danny.yadron@wsj.com) and Rebecca Ballhaus at [rebecca.ballhaus@wsj.com](mailto:rebecca.ballhaus@wsj.com)

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# Exhibit G

ComPost

# Hillary Clinton and the Chamber of E-mail Secrets

By **Alexandra Petri** March 5 at 3:16 PM

[“I want the public to see my email.”](#) That was Hillary Clinton, tweeting Wednesday night. After the kerfuffle over her use of a private e-mail account throughout her tenure as secretary of state, she is now, she says, ready to share. There are [55,000 pages of e-mails](#) (sidenote: pages is an odd metric) that her staff already turned over to the State Department, and once State gives the go-ahead, I guess, we’re going to get to see them, as Clinton always wished.

Well, if she wanted us to see them, this was certainly an indirect way of going about it.

As I always used to say to my parents: Of course I wanted you to read my diary! That is why I hid it in that secret compartment under my bed, where I felt that you were sure to look!

We’ve all been in situations like this. After several years of marriage, you go down the stairs to the basement on a night when your husband said he would be “out playing poker, with the guys.” You trip, reach out to catch yourself, and your hand catches a hidden button on the wall. It opens to reveal a secret underground den with reinforced metal walls. Your husband stands inside, developing pictures in an eerie red light.

“Er,” you say.

USCA Case #14-174 Document #1040875 Filed 03/09/15 Page 55 of 58

“Oh,” your husband says, “Hey. You’ve found my photo lab, I guess! Great! I was planning to share this little nook with you any day now! Why don’t you go back upstairs? I’ll come up shortly and bring all the photos that I think will interest you.”

“Okay,” you say. “Sounds fair. Seems like a good system.” You think of saying something else, but you don’t. “Yeah,” you say, again. “I don’t think anyone else needs to go through these but you. That’s just the kind of relationship we have.”

Several hours pass and he comes upstairs with a thick folder full of tasteful images of trees.

“Yes,” you say. “Good. Well, I’m glad you weren’t hiding anything from me.”

He smiles. “I would never.”

Something still feels a little off, though. Later you’re snooping around the garden and discover a locked shed. It smells funny. Your husband comes up behind you, startling you.

“I’ve told you, Jenny,” he says. “This is where I keep my TOOLS. If you want to see my tools, I can go in there and bring them out for you, but I would prefer it if you did not snoop into my tools.”

“Honey,” you say.

“Look,” he says. “I don’t want any trouble. You know I would never do anything wrong. You know me. You married me. You wouldn’t have married a man with a shed full of dead bodies dressed up as human dolls. But I have enemies. Enemies who would say crazy things. If I were to keep these tools out in the open, they would say, ‘That’s not a wood-working saw! That’s a saw for cutting up human bones!’ ‘That’s not an adze! That’s a tool for putting eyes in human dolls!’ They would go crazy. They would make our lives miserable. That’s why I had to lock my things away. From them. Not from you. From

You start to back away slowly.

“I completely agree with you, honey,” you say. “Your decision seems so correct. I think, though, that I might need to leave town for a little while.”

In general, the argument “Well, why are you being secretive about it if you’ve got nothing to hide?” doesn’t hold water with me. The desire for privacy is not bad, per se. It’s anything but. It’s human. The erosion of private space, as everyone increasingly lives a life shared with their family, friends and a few intimate multinational corporations alarms me. But this is when you’re a private citizen, not when you’re secretary of state. That is one time when you are supposed to be held to scrutiny, and if you’re being unduly secretive, it [smells funny](#).

There may well be nothing wrong. Everything may very well be exactly according to the letter and the spirit of the law, as her spokesman said. There may, in fact, be nothing that needs to be hidden. But now, because of this paranoia, we can never know for sure. Basement compartments or not, it’s enough to make you a little leery.

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Alexandra Petri writes the ComPost blog, offering a lighter take on the news and opinions of the day.

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