

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051

<http://oversight.house.gov>

Opening Statement Ranking Member Elijah E. Cummings

Hearing on “Examining FOIA Compliance at the Department of State” September 8, 2016

Thank you, Mr. Chairman. I wish I could say that I support today’s hearing, but I think everyone in this room knows what is really going on here. This hearing is not an effort to improve FOIA or federal record-keeping. This is an attack on Hillary Clinton’s candidacy for president—and just the latest in a series.

Republicans started with their discredited Benghazi investigation, accusing Secretary Clinton of all kinds of unsubstantiated conspiracies. When they turned up nothing, they just made up new accusations against her.

Then, when the Director of the FBI sat right there in that witness chair and debunked those allegations, the Republicans responded by attacking the FBI Director and then making up more accusations against Secretary Clinton.

The Chairman sent a perjury referral to the Justice Department that is ludicrous on its face. Then, he sent another referral accusing Secretary Clinton of obstructing justice. These actions had their desired effect—they kept repeating the headline that Hillary Clinton is under investigation.

Over the next five days, this Committee will hold three hearings focused directly on Hillary Clinton—one today, one Monday, and one Tuesday. This frantic pre-election fervor is an egregious abuse of taxpayer dollars for political purposes.

Today, this hearing is supposed to be focused on a report issued by the State Department Inspector General (IG) that highlighted longstanding challenges with FOIA across five different Secretaries of State. Yet, the Republicans splashed only one picture across the advisory they sent to press—a picture of Secretary Clinton.

The IG identified FOIA challenges under Secretaries Albright, Powell, Rice, Clinton, and Kerry, but the Republican memo for today focuses on only one—Secretary Clinton.

Last night, we obtained an email in which Secretary Powell provided advice to Secretary Clinton on how to skirt security rules and bypass requirements to preserve federal records, although Secretary Clinton has made clear that she did not rely on this advice.

In this email, Secretary Powell appears to admit that he did this himself. He also says he disregarded security warnings and used his personal mobile device inside the State Department's secure space.

I have tremendous respect for Secretary Powell and his decades of service to our nation, despite the poor judgment shown in this email.

However, rather than responding like Republicans by making a series of frivolous criminal referrals just to generate headlines to help Donald Trump, our goal as a Committee should be to ensure that the historical record is complete.

Secretary Powell used his personal email account for work, sent emails from non-governmental servers at AOL, and did not preserve these records. Yet, the Republican memo focuses only on the period between 2009 and 2013, when Hillary Clinton was Secretary.

Their memo says the Department "lost an untold number of federal records due to inappropriate record keeping practices by Secretary Hillary Clinton and her senior staff." Yet, Secretary Clinton produced approximately 55,000 pages of emails, while Secretary Powell has produced none.

If we are truly concerned with preserving the entire historical record, why hasn't the Committee sent a letter asking AOL to see if any of Secretary Powell's emails are recoverable?

The IG also reported that Secretary Powell sent classified information from his AOL account. Yet the Committee has never asked AOL to scan its systems, sequester national security information, or identify employees who may have had access to that information.

On this final issue—classification—I do believe our Committee could play a constructive role, but only if we do so in a bipartisan manner.

As part of our review so far, we have seen all kinds of ridiculous outcomes. We have seen agencies disagree on classification decisions. We have seen one agency say a document is classified and another agency say it is not. We have seen unclassified documents suddenly become retroactively classified. We have seen documents with classification markings that were completely wrong, and we have seen documents that are explicitly marked unclassified become classified after-the-fact.

I do not know how anyone can decipher this broken system, and there is no independent arbiter within the executive branch to handle these kinds of issues. This is exactly the type of cross-agency issue that our Committee was intended to address, and I hope we can do so together—in a bipartisan way.

Contact: Jennifer Werner, Communications Director, (202) 226-5181