

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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July 11, 2016

The Honorable James Comey
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, D.C. 20525

Dear Director Comey:

Thank you again for appearing before the Oversight Committee last week on such short notice. Your testimony helped clarify key questions about the FBI's year-long investigation of Secretary Clinton's email use and your recommendation not to pursue prosecution in that case.

During our hearing, Members expressed bipartisan agreement about the need to examine our broken classification system, and we discussed instances in which the Intelligence Community (IC) and the State Department may disagree about whether information is classified.

One example of this disagreement occurred with respect to Secretary Clinton's emails. Last year, Senator Bob Corker sent a letter to the State Department asking whether an email posted on the Department's FOIA website contained classified information, as reported by an official within the IC. In response, the State Department explained that this particular email did not in fact contain classified information. The letter stated:

Our experience is that this process may in some instances result in the IC wrongly assuming that information in the emails originated with the IC, when it may instead have been based upon other sources given the wide range of contacts maintained by State Department officials.¹

During your announcement last Tuesday, you stated: "From the group of 30,000 e-mails returned to the State Department, 110 emails in 52 email chains have been determined by the owning agency to contain classified information at the time they were sent or received."²

¹ Letter from Julia Frifield, Assistant Secretary for Legislative Affairs, Department of State, to Senator Bob Corker (Sept. 21, 2015).

² Federal Bureau of Investigation, *Statement by FBI Director James B. Comey on the*

As a threshold matter, I would like to know the total number of people who were listed on those 110 emails in 52 chains as senders or recipients.

For example, one email chain posted in the State Department's FOIA reading room appears to contain classified information. This email chain (Bates Number C05791985) is eight pages long and almost entirely redacted. The chain was forwarded to Secretary Clinton by Jake Sullivan, her director of policy planning, but it does not appear that she responded. In one email, the sender was David Satterfield, a career foreign service officer. Mr. Satterfield sent the email to Steven Simon, the Senior Director for Middle East Affairs at the National Security Council; Anne Patterson, the U.S. Ambassador to Egypt; Daniel Shapiro, the U.S. Ambassador to Israel; David Jones, the Special Envoy for Middle East Peace; and Beth Jones, another career foreign service officer. In total, 23 people appeared on this email chain, including National Security Adviser Tom Donilon, but none apparently believed it was classified at the time.

In addition to the request above, and particularly given previous examples of genuine disagreement over proper classification designations, I would like to understand whether the IC and the State Department agreed that these emails were classified when sent or received.

My understanding is that, in order to make this determination, the FBI sent these emails to the "owning agencies" and received back their assessments about whether information within them was classified when sent or received.

For purposes of this inquiry, I am seeking information on a smaller subset of these emails that have already been posted in the State Department's FOIA reading room rather than the full set of 110 emails in 52 email chains referenced last week. For this smaller category of emails, I request the following information:

- (1) Please identify each instance, if any, in which the State Department did not agree that an email in this category was classified when sent or received.
- (2) Please identify each instance, if any, in which the State Department did not agree that an email in this category was classified when sent or received at the same level as another agency.
- (3) Please identify each instance, if any, in which the State Department did not confirm that an email in this category was classified when sent or received.
- (4) Please identify each instance, if any, in which the FBI did not send an email in this category to the State Department for this classification review, as well as the sender and recipients of that email and the reason for not sending it to the State Department.

The Honorable James Comey

Page 3

Please identify each email responsive to the requests above by using the case number and the Bates number of that email as it appears in the State Department's FOIA reading room. I would appreciate receiving this information by July 15, 2016.

At last week's hearing, you said, "I'm a big fan of transparency." You also stated, "I'll commit to giving you everything I can possibly give you under the law and doing it as quickly as possible."³ I sincerely thank you for your commitment, and I appreciate your continued assistance with this matter.

Sincerely,



Elijah E. Cummings
Ranking Member

cc. The Honorable Jason Chaffetz, Chairman

³ House Committee on Oversight and Government Reform, *Hearing on Oversight of the State Department* (July 7, 2016).