



March 14, 2016

Mr. Patrick F. Kennedy
Under Secretary of State for Management
Senior Agency Official for Records Management
United States Department of State
2201 C Street, NW
Washington, DC 20520-6421

Dear Mr. Kennedy:

Thank you for your letter of November 6, 2015, providing additional information concerning the emails of former Secretary of State Hillary Clinton. We are encouraged to hear about the progress of the Electronic Records Management Working Group (ERMWG) in updating the Department's email management guidance, including the piloting of the Capstone approach to capturing email messages. We are also pleased to hear that the Foreign Affairs Manual (FAM) reflects this new guidance, codifying recordkeeping requirements related to the use of personal or non-official email accounts for official business consistent with the November 2014, amendments to the Federal Records Act. We have reviewed this updated guidance at 5 FAM 443.7 *Non-Official Email Accounts*, but found that it may be confusing to employees given that it is placed in the section titled "Electronic Records, Facsimile Records, and Electronic Mail Records" and not referenced in the section titled "Electronic Mail (Email) Policy" at 5 FAM 750. We recommend a review of the various email entries in the FAM for contradictory language and suggest consolidating them to a single entry to minimize confusion.

In your November 6 letter, you noted that the Department's Office of Inspector General (OIG) is in the process of investigating the Department's recordkeeping practices. The OIG has consulted with NARA as it prepares its final OIG report, and we look forward to receiving the report when it is issued. We are also available to review and provide comments to the Department on its Plan of Corrective Action (PoCA) to ensure that it is in line with NARA guidance.

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You also indicated that Secretary Kerry had appointed a Transparency Coordinator to implement the recommendations of both the ERMWG and the OIG. NARA staff met with the Transparency Coordinator and were also briefed by the ERMWG on new policies and tools related to email management. In order to stay apprised of the Department's progress on the various electronic records management activities, we recommend that we schedule regular meetings with the Department's Transparency Coordinator and the Office of Information Programs and Services.

With regard to the Department's open inquiries with the Federal Bureau of Investigation (FBI) and the representatives of former Secretary Colin Powell (letters dated September 14, 2015, and October 21, 2015, respectively), NARA still believes that the Department will need to take additional action to resolve these matters at the appropriate time. To reiterate our previous request of July 2, 2015, please confirm that the Department is following up with the internet service provider of former Secretary Powell with regard to whether it is still possible to retrieve the email records that may still be present on their servers. Once resolved, provide us with the appropriate documentation verifying the return of the records to the Department's custody or the inability of the Department to recover these records. We understand that the Department must wait until the FBI concludes its investigation before taking further action with regard to determining whether any additional email records of Secretary Clinton can be recovered.

We recognize the Department's challenge in addressing the various complex records management issues related to the records of the former Secretaries. It appears that progress has been made and we are looking forward to receiving the reports and other documentation verifying the Department's actions. We appreciate the close working relationship we have had with you and your staff, and we remain ready to work with you to resolve all outstanding issues related to this case.

Thank you for your continued attention to these matters.

Sincerely,

A handwritten signature in blue ink, appearing to read "Laurence Brewer".

LAURENCE BREWER
Acting Chief Records Officer
for the U.S. Government

cc: Margaret P. Grafeld
Deputy Assistant Secretary for Global Information Services, Bureau of Administration,
U.S. Department of State