

**UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON**

November 6, 2015

Laurence Brewer
Acting Chief Records Officer
National Archives and Records Administration
700 Pennsylvania Avenue, NW
Washington, DC 20408

Dear Mr. Brewer,

The Department of State has been working these past months with the National Archives and Records Administration (NARA) regarding the emails of former Secretary of State Hillary Clinton. I am writing to provide NARA additional information regarding the Department's efforts, including information relevant to Paul M. Wester, Jr.'s July 2 letter to Margaret P. Grafeld, Deputy Assistant Secretary for Global Information Services.

Mr. Wester inquired as to steps the Department is taking to implement records management directives it issued in 2014 with respect to senior Department officials. As you know, in March of this year, Secretary Kerry asked the Department's Office of Inspector General ("OIG") to review and make recommendations for improving the Department's recordkeeping practices. Although OIG has not yet issued recommendations, Secretary Kerry appointed a Transparency Coordinator in September to work with Department bureaus and offices on improving Department records systems. It is expected that the Transparency Coordinator will be able to build on the work of the OIG as well as on the ongoing efforts of the Department's records management program, which has been instrumental in reminding all Department employees, including senior officials, of their records management responsibilities, including those regarding email.

The Department is reviewing email management options for the Department through an Electronic Records Management Working Group (ERMWG) that was established in order to meet the requirements for email management by December 31, 2016, as mandated by the President's Managing Government Records Directive. Although a long-term solution will be in place by the end of 2016, the

Department is working on several short-term steps to preserve senior officials' email. In February 2015, the Department's Executive Secretariat began journaling the email of 85 senior officials; as of October, the Executive Secretariat was journaling 112 senior officials. This includes the Deputy Secretaries, Under Secretaries, several senior advisers, as well as the Secretary's staff ranging from his chief of staff to staff assistants. The Department is also automatically journaling Secretary Kerry's email. Any email sent or received on Secretary Kerry's state.gov account is automatically copied and remotely saved electronically. In addition to the above listed officials, the Department began journaling the email accounts of Assistant Secretaries, Principal Deputy Assistant Secretaries, and a limited number of other senior officials in October 2015.

The Department updated its email policy in the Foreign Affairs Manual in October reminding employees that personal email accounts should only be used for official work in very limited circumstances and that under the Presidential and Federal Records Act Amendments of 2014, employees are prohibited from creating or sending a record using a non-official email account unless the employee (1) copies the employee's official email account in the original creation or transmission, or (2) forwards a complete copy of the record (including any attachments) to the employee's official email account not later than 20 days after the original creation or transmission. In addition, the Department's Foreign Service Institute (FSI) provides a variety of training courses, both classroom and online, that include records management. These courses include records management training for Office Management Specialists, Information Management Officers, and orientation courses for new employees. FSI also offers a specialized records management course for all levels of employees and training for State Messaging and Archive Retrieval Toolset (SMART) users.

The Secretary's Executive Secretariat regularly hosts record-keeping workshops for all Seventh Floor Department Principals' offices and employees, including five sessions in 2015. Representatives from the Office of Information Programs and Services (A/GIS/IPS) and the Correspondence, Records and Staffing Division of the Executive Secretariat Staff review senior officials' responsibilities for creating records necessary to document their activities and for the proper management and preservation of their records regardless of physical format or media. They also discuss departing senior officials' responsibility to identify their records prior to departure and to take with them only personal papers and non-record materials, subject to review by records officers to ensure compliance with federal records laws and regulations. Adherence to Department email

requirements in accordance with the Presidential and Federal Records Act Amendments of 2014 is also emphasized at these workshops.

The Executive Secretariat also requires a briefing for all incoming and departing employees assigned to Seventh Floor Department Principals' offices on their record keeping requirements and responsibilities. Upon notification of a senior official's departure, the Executive Secretariat Staff briefs and assists each departing Principal's office with the proper preservation of official records.

In his letter, Mr. Wester also requested that the Department contact former Secretary Clinton's representatives to request the native electronic version with the associated metadata of the approximately 55,000 pages of emails provided to the Department. As set forth in the Department's and NARA's September 17 motion to dismiss in the consolidated cases of *Judicial Watch v. Kerry*, No. 1:15-cv-00785-JEB and *Cause of Action Institute v. Kerry*, No. 1:15-cv-01068-JEB, the Department requested on May 22 that former Secretary Clinton provide an electronic copy of the approximately 55,000 pages of emails, and Secretary Clinton's attorney responded that they would do so. The electronic copy was not, however, provided; Secretary Clinton's counsel advised on August 12 that the email server that was used to store Secretary Clinton's emails while she was Secretary of State and the thumb drives that included electronic copies of the documents she had provided to the Department had been turned over to the Federal Bureau of Investigation (FBI). On September 14, 2015, the Department sent a letter to the FBI requesting an electronic copy of the approximately 55,000 pages. We have not yet received such a copy.

Mr. Wester also advised that the Department may want to reach out to both former Secretary Clinton and former Secretary Colin Powell to see if Department emails could be recovered from any internet service and email providers that they used. On October 2, 2015, the Department requested Secretary Clinton's counsel to confirm that "with regard to her tenure as Secretary of State, former Secretary Clinton has provided the Department with all federal records in her possession, regardless of their format or the domain on which they were stored or created, that may not otherwise be preserved in the Department's recordkeeping system. To the extent her emails might be found on any internet service and email providers, we encourage you to contact them." (Attachment A). On October 8, former Secretary Clinton's counsel wrote to:

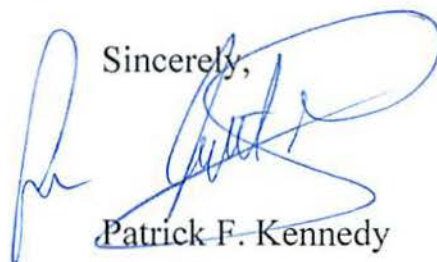
confirm that, with regard to her tenure as Secretary of State, former Secretary Clinton has provided the Department on December 5, 2014, with

all federal e-mail records in her custody, regardless of their format or the domain on which they were stored or created, that may not otherwise be preserved, to our knowledge, in the Department's recordkeeping system. She does not have custody of e-mails sent or received in the first few weeks of her tenure, as she was transitioning to a new address, and we have been unable to obtain these. In the event we do, we will immediately provide the Department with federal record e-mails in this collection. (Attachment B).

On October 21, the Department sent a letter to Secretary Powell's principal assistant similarly encouraging them to check with the internet service or email provider for Secretary Powell's former account to see if it is still possible to retrieve any official emails from his tenure at the Department. (Attachment C). The Department has not as yet received a response.

Finally, please be advised that in letters of March 11, 2015, the Department also requested of former aides to former Secretary Clinton -- Cheryl Mills, Huma Abedin, Jacob Sullivan, and Philippe Reines -- that should any of them be aware or become aware of a federal record in his or her possession, such as an email sent or received on a personal email account while serving in an official capacity at the Department, that such record be made available to the Department. We also advised them of NARA's records management guidance *Bulletin 2013-03* and the additional NARA guidance on managing email issued on September 15, 2014, some or all of which post-dated their service to the Department. The Department has received over one hundred thousand pages of documents from Ms. Mills, Ms. Abedin, Mr. Sullivan, and Mr. Reines collectively, through their representatives in response to the Department's request.

We hope that this information assists in NARA's understanding of this matter. As always, thank you for our continued close collaboration.

Sincerely,

Patrick F. Kennedy

Enclosures

**UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON**

OCT 02 2015

Mr. David E. Kendall, Esq
Williams & Connolly LLP
725 12th Street, NW
Washington, DC 20005

Dear Mr. Kendall:

I am writing regarding the Department's request that your client, former Secretary of State Hillary Clinton, provide it with any federal records in her possession, such as an email sent or received on a personal email account while serving as Secretary of State, if there is reason to believe that it may not otherwise be preserved in the Department's recordkeeping system.

On December 5, 2014, former Secretary Clinton produced approximately 55,000 pages of documents in response, spanning from March 18, 2009 to February 1, 2013. The Office of Former Secretary Clinton has previously explained that "Before March 18, 2009, Secretary Clinton continued using the email account she had used during her Senate service" and that "[s]he, however, no longer had access to these emails once she transitioned from this account." In the course of reviewing recently received documents from other former officials, the Department has become aware of emails that were sent to or received from former Secretary Clinton between January and March 2009.

As a result, I ask that you confirm that, with regard to her tenure as Secretary of State, former Secretary Clinton has provided the Department with all federal records in her possession, regardless of their format or the domain on which they were stored or created, that may not otherwise be preserved in the Department's recordkeeping system. To the extent her emails might be found on any internet service and email providers, we encourage you to contact them.

I would appreciate it if you would confirm receipt of this letter and respond to the above request for information in writing at your earliest convenience.

Sincerely,


Patrick F. Kennedy

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EDWARD BENNETT WILLIAMS (1920-1988)
PAUL R. CONNOLLY (1922-1978)

October 8, 2015

BY EMAIL

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

Dear Mr. Kennedy:

Thank you for your letter dated October 2, 2015. I can confirm that, with regard to her tenure as Secretary of State, former Secretary Clinton has provided the Department on December 5, 2014, with all federal e-mail records in her custody, regardless of their format or the domain on which they were stored or created, that may not otherwise be preserved, to our knowledge, in the Department's recordkeeping system. She does not have custody of e-mails sent or received in the first few weeks of her tenure, as she was transitioning to a new address, and we have been unable to obtain these. In the event we do, we will immediately provide the Department with federal record e-mails in this collection.

Sincerely,



David E. Kendall

DEK/bb

**UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON**

OCT 21 2015

Peggy Cifrino
Principal Assistant to General Colin Powell
Office of General Colin L. Powell, USA (Ret)
909 North Washington Street, Suite 700
Alexandria, Virginia 22314

Dear Ms. Cifrino:

I am writing regarding the Department's November 12, 2014 request that former Secretary of State Colin Powell provide it with any federal records in his possession, such as an email sent or received on a personal email account while serving as Secretary of State, if there is reason to believe that it may not otherwise be preserved in the Department's recordkeeping system.

You previously advised, with respect to official emails sent on Secretary Powell's private account during his time in office, that the account he used has been closed for a number of years. Based on advice we have received from the National Archives and Records Administration, the Department would nevertheless encourage you – if you have not already done so – to check with the internet service or email provider for the former account to see if it is still possible to retrieve any official emails from Secretary Powell's tenure at the Department. If you do recover any such emails, we would appreciate your forwarding them to the Department.

Thank you for considering this request.

Sincerely,


Patrick F. Kennedy