

2/19/2016

National Archives & Records Administration Mail - Re: Clinton personal records review

re Clinton personal records review.PDF



GaryM Stern <garym.stern@nara.gov>

Re: Clinton personal records review

1 message

Paul Wester <paul.wester@nara.gov>
To: GaryM Stern <garym.stern@nara.gov>

Thu, May 7, 2015 at 9:42 AM

Thanks!

Paul M. Wester, Jr.
Chief Records Officer for the U.S. Government
National Archives and Records Administration
301-837-3120

On Thu, May 7, 2015 at 9:39 AM, GaryM Stern <garym.stern@nara.gov> wrote:

Paul, the first attachment is your letter to [REDACTED] even though it's called Clinton Review Letter_State. Need to resend it.

[REDACTED] FOIA(b)(6)

FOIA (b)(5)

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
301-837-3026 (office)
301-837-0293 (fax)
garym.stern@nara.gov

On Thu, May 7, 2015 at 9:23 AM, Paul Wester <paul.wester@nara.gov> wrote:

Hi Peggy,

Please find attached the letter that I sent out in hard copy to you yesterday afternoon documenting the completion of the NARA review of the emails the State Department staff identified as the personal emails of former Secretary of State Hillary Clinton. The letter has an enclosure, the process that we followed to conduct our review. It is also attached here.

We will be in touch in the next week to ten days to discuss where we are with our response to your letter of April 2nd. I've been wrapped up in a number of other issues, and Laurence has been away on travel and training. We should meet again before the end of the month on where things stand, once we have a draft of our response.

Please let me know if you have any questions or concerns about this, or anything else. I am going to be unavailable most of today and out tomorrow. Hopefully we can find a time to chat next week.

I look forward to seeing you again soon.

Thanks, Paul

Paul M. Wester, Jr.
Chief Records Officer for the U.S. Government
National Archives and Records Administration
301-837-3120

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Date: April 22, 2015
To: Paul M. Wester, Jr., Chief Records Officer for the U.S. Government (AC) *TM*
From: Laurence Brewer, Director, National Records Management Program (ACN) *LWB*
Subject: Review of Personal Clinton Email

Senior staff at the National Archives and Records Administration (NARA) will conduct a review of each individual email sent or received by Secretary of State Hillary Clinton that has been identified by the Department of State as a personal email and therefore not a federal record. As part of this review, NARA staff will validate whether the Department has correctly applied Federal statutes, regulations, and guidelines in making this determination.

SCOPE

The Department of State received approximately 55,000 pages of emails from former Secretary Clinton that she determined to be Federal records. Within this collection of emails, currently maintained by the Department's Office of Information Programs and Services, the Department identified 1,246 emails to be personal in nature, and therefore not meeting the statutory definition of a record as defined in the Federal Records Act, as amended. According to NARA regulations, personal files must be clearly designated as personal and maintained separately from records that meet the Federal definition of the record (see 36 CFR 1222.20(b)).

NARA's review will focus on the 1,246 hard copy versions of the emails identified by the Department as personal. NARA will review each individual email to conduct an independent determination of the appropriateness of this designation. If NARA determines that any individual email is not of a personal nature (i.e., relates to official agency business) either in full or in part, NARA will advise the Department to return the email(s) to the record collection of records received from Secretary Clinton.

NARA's review will be based on existing Federal standards and will be conducted using the following methodology.

STANDARDS

NARA staff assigned to review the collection of personal email records will refer to relevant NARA regulations and guidance that define personal files and how they should be maintained and managed:

Personal files (also called *personal papers*) are documentary materials belonging to an individual that are not used to conduct agency business. Personal files are excluded from the definition of Federal records and are not owned by the Government. (36 CFR 1220.18)

(1) If information about private matters and agency business appears in a received document, the document is a Federal record. Agencies may make a copy of the document with the personal information deleted or redacted, and treat the copy as the Federal record.

(2) Materials labeled “personal,” “confidential,” or “private,” or similarly designated, and used in the transaction of public business, are Federal records. The use of a label such as “personal” does not affect the status of documentary materials in a Federal agency. (36 CFR 1222.20)

Records include all recorded information, regardless of form or characteristics, made or received by a Federal agency under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the United States Government or because of the informational value of data in them. (44 U.S.C. 3301(a) (2014))

METHODOLOGY

NARA staff reviewing the collection of personal emails identified by the Department should consider the following questions and guidance, to the extent possible, in making their determination on whether each individual email is appropriately identified as personal (see NARA’s Disposition of Federal Records, 1997):

Content. Does the email contain only substantive information about agency business, or does it contain only information about the Secretary’s personal matters? Does it contain both official and personal information?

Purpose. Was the email created to facilitate agency business, or was it created solely for personal convenience?

Distribution. Was the email distributed to other Department staff for an official purpose?

Use. Did other Department staff use the email or rely on the information in the email to conduct agency business?

Segregation. Can substantive agency information in the email be segregated from any personal information and extracted for filing in the larger collection of emails meeting the Federal definition of a record?

In addition to the above general guidance, NARA staff reviewing Secretary Clinton's personal email will assess information specific to each individual email, including:

- (a) The subject of the email, names of sender and all addressee(s), and date and time the message was sent. This information will facilitate evaluating the context of the message, and ensures each message can be uniquely identified and controlled;
- (b) Attachments to an email that may be an integral part of the record. This information may clarify whether a particular email is personal or related to official agency business; and
- (c) Number of pages of each identified email to verify the completeness and integrity of the collection.

With consideration to the above general and specific guidance, NARA staff will document its determination for each identified personal email. Using the Department's hard copy report (i.e., inventory) that lists each of the 1,246 personal emails, NARA will either validate the Department's determination, or recommend that email(s) be returned to the larger collection of emails meeting the definition of a Federal record.

Each NARA reviewer will annotate the provided inventory as follows:

- (a) If the NARA reviewer agrees with the Department's determination of personal, NARA will initial and date the entry.
- (b) If NARA believes the email meets the definition of a Federal record, in full or in part, the entry should be lined through on the report indicating that the email should be removed from the inventory of personal emails and returned to the larger collection. The entry should also be initialed and dated.

Upon completion of the review, NARA will retain a photocopy of the inventory as evidence of its actions and decisions on the collection of emails identified as personal.



MAY 06 2015

Margaret P. Grafeld
Deputy Assistant Secretary for Global Information Services
Bureau of Administration
U.S. Department of State
SA-2, Suite 8000
515 22nd Street, NW
Washington, DC 20522-0208

Dear Ms. Grafeld:

At your request, per 44 U.S.C. 3301(b), the National Archives and Records Administration (NARA) has undertaken and completed a detailed review of the email correspondence of former Secretary of State Hillary Clinton that the Department identified as personal materials not meeting the statutory definition of a Federal record. This review was conducted by myself and another senior NARA staff member on April 24 and 28, 2015, at your offices in Washington, DC.

NARA's review was completed according to a methodology approved by NARA's General Counsel on April 22, 2015 (Enclosed). Using these guidelines, NARA reviewed each of the 1,246 hard copy versions of emails sent or received by former Secretary Clinton that the Department identified as personal. The goal of this review was to validate that the Department correctly applied Federal statutes, regulations, and guidelines in identifying the personal correspondence of the former Secretary.

Based on our review, NARA concurs with the Department's determination that these 1,246 emails are personal in nature and do not meet the definition of a record as defined in the Federal Records Act, as amended (44 U.S.C. 3301).

We look forward to working with you on other pending issues related to the management and disposition of the former Secretary's email correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul M. Wester, Jr.", with a stylized flourish at the end.

PAUL M. WESTER, JR.

Chief Records Officer
for the U.S. Government

Enclosure