

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

KEITH B. ASHDOWN, STAFF DIRECTOR
GABRIELLE A. BATKIN, MINORITY STAFF DIRECTOR

March 18, 2015

The Honorable Steve A. Linick
Inspector General
U.S. Department of State
2201 C Street, N.W.
Washington, DC 20520

Dear Mr. Linick:

On March 2, 2015, the *New York Times* reported that former Secretary of State, Hillary Clinton, exclusively used a non-State Department email account to conduct business while Secretary of State.¹ The *Times* reported that the State Department “took no action to have her personal emails preserved on department servers at the time, as required by the Federal Records Act.”² Secretary Clinton’s actions may violate federal regulations promulgated in October of 2009, which read “Agencies that allow employees to send and receive official electronic mail messages using a system not operated by the agency must ensure that Federal records sent or received on such systems are preserved in the appropriate agency recordkeeping system.”³ The Homeland Security and Government Affairs Committee requests that you examine this matter.

On March 10, 2015, Secretary Clinton admitted publicly that she exclusively used a non-State Department email account created on a private email server located in her home for official State Department business.⁴ Secretary Clinton argued that she complied with federal rules because she sent emails to other officials on their State Department email accounts, which would be preserved under federal record-keeping rules.⁵ However, communications of great public interest, such as emails to foreign leaders, individuals in the private sector, or government officials outside the State Department, may not be preserved because those individuals do not possess an official State Department account. As such, the use of a non-State Department email account to conduct official government business may have affected congressional oversight and limited citizen access to information under the Freedom of Information Act (FOIA) for records during Secretary Clinton’s time at the State Department.⁶

¹ Michael S. Schmidt, *Hillary Clinton Used Personal Email Account at State Dept., Possibly Breaking Rules*, THE NEW YORK TIMES, March 2, 2015.

² *Id.*

³ 36 CFR 1236.22.

⁴ Press Conference with Hillary Clinton, CNN (March 10, 2015).

⁵ *Id.*

⁶ Michael S. Schmidt and Amy Chozick, *Using Private Email, Hillary Clinton Thwarted Record Requests*, THE NEW YORK TIMES, March 3, 2015.

Secretary Clinton also admitted that she operated her own internet server within her home to host her non-State Department email account.⁷ This practice further limits access to non-State Department email accounts used to conduct official government business, and potentially gives unknown third parties sole control over the information contained in those emails, which should rightfully be in the public domain under federal record-keeping laws and regulations.

The exclusive use of a non-State Department email account by the leading diplomat in the United States also raises national security concerns. In her position, Secretary Clinton had access to sensitive and classified diplomatic information on a daily basis. Although Secretary Clinton asserted that she put safeguards in place to protect her non-State Department email server, it is unknown what precautionary security measures existed, and whether those safeguards were consistent with best practices used by the federal government to protect email communications.⁸

To address these concerns, we request that your office initiate an investigation into the exclusive use of a non-State Department email account by Secretary Clinton, including taking all necessary steps to immediately preserve and retain all emails on the non-State Department email server used for official business. Specifically, the Committee would like your investigation to answer to the following questions:

1. What are the State Department's email and record retention policies and procedures?
 - a. Do State Department officials receive training on the Department's record retention policies and procedures?
 - b. What policies does the Department have in place to ensure information transmitted over its networks is secure?
 - c. Are the State Department's email and record retention policies and procedures sufficient?
 - d. Were the State Department's email and record retention policies applied to Secretary Clinton? If not, please provide an explanation.
2. Did any federal employee or official authorize Secretary Clinton to use a non-State Department e-mail for official e-mails? If so, who?
 - a. Who configured, managed, and administered Secretary Clinton's non-State Department e-mail address and associated software and hardware during her tenure at the State Department?
 - b. Who paid for domain registration, equipment, software licenses, and associated maintenance for the non-State Department e-mail system?
3. What is the State Department's policy regarding assessing security of information technology systems used for official State Department business?

⁷ Jack Gillum and Ted Bridis, *Clinton ran own computer system for her official emails*, THE ASSOCIATED PRESS, March 4, 2015.

⁸ Press Conference with Hillary Clinton, CNN (March 10, 2015).

- a. Did the State Department conduct a security assessment of Secretary Clinton's non-State Department e-mail system? If so, what was the result of that assessment? If not, why not?
 - b. Was Secretary Clinton's non-State Department e-mail system securely configured and compliant with the Federal Information Security Management Act?
 - c. Were any mobile devices connected or linked with the non-State Department e-mail system ever taken into foreign countries? If so, what security processes were in place to ensure the device, the data on the device(s), and the data on the non-State Department e-mail system were not compromised?
4. What motivated the State Department to send a letter to all former secretaries of state, including Secretary Clinton, in October 2014 seeking emails and other documents in their possession relating to official government business?
- a. When did other State Department employees become aware of Secretary Clinton's exclusive use of a non-State Department email account?
 - b. How did the State Department become aware of the need to request emails sent through Secretary Clinton's non-State Department email account?
 - c. Was the State Department's October 2014 request sufficiently expansive?
 - d. How did Secretary Clinton respond to the request?
 - e. What search terms and/or filters did Secretary Clinton apply when gathering her non-State Department emails?
 - f. Did the Department and OIG's lack of access to Secretary Clinton's emails impede any reviews, investigations, inspections, evaluations, or audits conducted by the Department, OIG, or a third party?
 - g. Who applied search terms and/or filters to gather Secretary Clinton's emails?
 - h. How did the State Department maintain or preserve these emails after Secretary Clinton provided them to the Department?
5. After the State Department became aware of Secretary Clinton's use of a non-State Department email account to conduct official business, what entities or individuals did the Department notify about Secretary Clinton's use of a non-State Department email account?
- a. When did the Department notify these entities or individuals?
 - b. What did the Department tell these entities or individuals?
 - c. Did the Department receive instructions from any entities or individuals on what to tell those that it notified?
 - d. Did any State Department officials inform the National Archives and Records Administration (NARA) of Secretary Clinton's exclusive use of a non-State Department email account? When?
 - e. Did the Department notify your office about Secretary Clinton's use of a non-State Department email account?
 - f. Was there any discussion between Department officials about whether the Department should notify your office, NARA, Congress, and/or the public about Secretary Clinton's use of a non-State Department email account?

- g. Since the news of Secretary Clinton's non-State Department email server became public, have any federal government entities requested that Secretary Clinton preserve and retain all documents created on that email server during her tenure as Secretary of State?
6. Did State Department officials, including Secretary Clinton, take any steps to produce emails sent through Secretary Clinton's non-State Department email account in response to FOIA requests or requests from Congress? If so, what steps were taken for each specific request, from January 2009 to the present?
7. What steps is the Department taking to investigate Secretary Clinton's email practices?
8. What steps is the Department taking to recover emails sent through Secretary Clinton's non-State Department email account?
 - a. Has the State Department attempted to recover emails sent through Secretary Clinton's non-State Department email account through other federal agencies, foreign governments, or the White House?
 - b. What steps is the State Department taking to ensure it has access to the entire universe of Secretary Clinton's emails used to conduct official government business?
9. Did any of the e-mails sent to or from Secretary Clinton's non-State Department email account contain classified information?
10. Does Secretary Clinton have exclusive control over which documents she chooses to turn over to the federal government as responsive to FOIA and other requests? Who has physical possession and control of Secretary Clinton's emails at present?

If, during your investigation, you discover that other State Department employees used non-official email accounts to conduct official business, please answer these questions with respect to these other employees and accounts as well. We ask that you produce a report to the Committee with your findings related to this request. Please keep Committee staff apprised of your progress in conducting this report and contact Emily Martin or Caroline Ingram of the Committee staff at (202) 224-4751 with any questions. Your assistance in this matter is greatly appreciated.

Sincerely,



Ron Johnson
Chairman

Cc: The Honorable Thomas R. Carper
Ranking Member