

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JUDICIAL WATCH, INC.,)	
)	
Plaintiff,)	Civil Action No. 13-CV-1363 (EGS)
)	
v.)	
)	
UNITED STATES DEPARTMENT OF)	
STATE,)	
)	
Defendant.)	
_____)	

DEFENDANT'S NOTICE OF FILING

Pursuant to the Court's July 31, 2015 Order, defendant the U.S. State Department submits herewith the letters that it sent to former Secretary Clinton, Huma Abedin, and Cheryl Mills regarding federal records in their possession, and the responses to those letters that it received (with home addresses and a phone number redacted).

Dated: August 6, 2015

Respectfully submitted,

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General

MARCIA BERMAN
Assistant Director

/s/ Peter T. Wechsler
PETER T. WECHSLER (MA 550339)
Senior Counsel
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, N.W.
Washington, D.C. 20530
Tel.: (202) 514-2705
Fax: (202) 616-8470
Email: peter.wechsler@usdoj.gov
Counsel for Defendant

UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON

Cheryl

NOV 12 2014

Dear Ms. Mills:

The Department of State has a longstanding and continuing commitment to preserving the history of U.S. diplomacy, established in authorities under the Federal Records Act of 1950. I am writing to you, the representative of Secretary of State Hillary Clinton, as well as to representatives of other former Secretaries (principals), to request your assistance in further meeting this requirement.

The Federal Records Act of 1950, as amended, 44 U.S.C. chapters 29, 31 and 33, seeks to ensure the preservation of an authoritative record of official correspondence, communications, and documentation. Last year, in *Bulletin 2013-03*, the National Archives and Records Administration (NARA) clarified records management responsibilities regarding the use of personal email accounts for official government business. NARA recommended that agencies refer to its guidance when advising incoming and departing agency employees about their records management responsibilities. This bulletin was followed by additional NARA guidance on managing email issued on September 15, 2014. See enclosed.

We recognize that some period of time has passed since your principal served as Secretary of State and that the NARA guidance post-dates that service. Nevertheless, we bring the NARA guidance to your attention in order to ensure that the Department's records are as complete as possible. Accordingly, we ask that should your principal or his or her authorized representative be aware or become aware in the future of a federal record, such as an email sent or received on a personal email account while serving as Secretary of State, that a copy of this record be made available to the Department. In this regard, please note that diverse Department records are subject to various disposition schedules, with most

Enclosures - 3

Ms. Cheryl Mills,

[REDACTED]

[REDACTED]


-2-

Secretary of State records retained permanently. We ask that a record be provided to the Department if there is reason to believe that it may not otherwise be preserved in the Department's recordkeeping system.

The Department is willing to provide assistance to you in this effort. In the meantime, should you have any questions regarding this request, please do not hesitate to contact William Fischer, A/GIS/IPS/RA, Agency Records Officer, at (202) 261-8369.

We greatly appreciate your consideration of and assistance with this matter.

Sincerely,

A handwritten signature in black ink, appearing to be 'P. Kennedy', written over the printed name.

Patrick F. Kennedy

cdmillsGroup

endeavors that matter

VIA HAND DELIVERY

The Honorable Patrick F. Kennedy
Under Secretary of State for Management
U.S. Department of State
2201 C Street, N.W.
Washington, DC 20520

December 5, 2014

Dear Under Secretary Kennedy:

I am writing in response to your request for assistance in helping the Department meet its requirements under the Federal Records Act.

Like Secretaries of State before her, Secretary Clinton at times used her own electronic mail account when engaging with other officials. On matters pertaining to the conduct of government business, it was her practice to use the officials' government electronic mail accounts. Accordingly, to the extent the Department retains records of government electronic mail accounts, it already has records of her electronic mail during her tenure preserved within the Department's recordkeeping systems.

Out of an abundance of caution though and to assist the Department, the Secretary's electronic mail has been reviewed. Please find enclosed those electronic mails we believe respond to your request. Given the volume of electronic mails being provided, please note these materials inevitably include electronic mail that are not federal, and in some cases are personal, records which we request be handled accordingly.


Sincerely,



Cheryl Mills




UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON
MAR 11 2015

Dear Ms.  Abedin:

Last week, the Department of State received the attached subpoena from the Select Committee on Benghazi, requesting certain documents and communications. I am writing to request your assistance, to the extent necessary, in meeting the requirements of this subpoena and properly preserving any potential federal records that may be in your custody related to your work on any topic, at any time, as an official at the Department of State.

The Federal Records Act of 1950, as amended, 44 U.S.C. chapters 29, 31 and 33, seeks to ensure the preservation of an authoritative record of official correspondence, communications, and documentation. In *Bulletin 2013-03*, the National Archives and Records Administration (NARA) clarified records management responsibilities regarding the use of personal email accounts for official government business. NARA recommended that agencies refer to its guidance when advising incoming and departing agency employees about their records management responsibilities. This bulletin was followed by additional NARA guidance on managing email issued on September 15, 2014. See attached.

We recognize that some or all of the NARA guidance may post-date your service at the Department. Nevertheless, we bring the NARA guidance to your attention in order to ensure that the Department's records and subpoena compliance are as complete as possible. Accordingly, we ask that should you be aware or become aware in the future of a federal record in your possession, such as an email sent or received on a personal email account while serving in your official capacity at the Department, that such record be made available to the Department. In this regard, please note that diverse Department records are subject to various disposition schedules, with certain records retained permanently. We ask that a record be preserved and provided to the Department at your earliest convenience if there is any reason to believe that it may not otherwise be preserved in the Department's recordkeeping system.

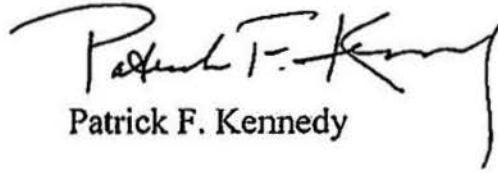
Ms. Huma Abedin,


-2-

The Department is willing to provide assistance to you in this effort. In the meantime, should you have any questions regarding this request, please do not hesitate to contact William Fischer, A/GIS/IPS/RA, Agency Records Officer, at (202) 261-8369.

We greatly appreciate your consideration of and assistance with this matter and ask that you respond in writing by March 18, 2015 as to whether you are aware of any potential federal records that may be in your custody related to your work on any topic, at any time, as an official at the Department of State. We would also greatly appreciate knowing when you will be able to provide any records to the Department.

Sincerely,



Patrick F. Kennedy

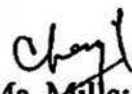
Attachments: (4)

1. Subpoena
2. 44 USC 3301
3. NARA Bulletin 2013-03
4. NARA Bulletin 2014-06

cc: William Fischer

**UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON**

MAR 11 2015


Dear Ms. Mills:

Last week, the Department of State received the attached subpoena from the Select Committee on Benghazi, requesting certain documents and communications. I am writing to request your assistance, to the extent necessary, in meeting the requirements of this subpoena and properly preserving any potential federal records that may be in your custody related to your work on any topic, at any time, as an official at the Department of State.

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Ms. Cheryl Mills,
c/o Ms. Beth Wilkinson,
Paul, Weiss, Rifkind, Wharton & Garrett,
2001 K Street NW,
Washington, DC 20006-1047.

-2-

record be preserved and provided to the Department at your earliest convenience if there is any reason to believe that it may not otherwise be preserved in the Department's recordkeeping system.

The Department is willing to provide assistance to you in this effort. In the meantime, should you have any questions regarding this request, please do not hesitate to contact William Fischer, A/GIS/IPS/RA, Agency Records Officer, at (202) 261-8369.

We greatly appreciate your consideration of and assistance with this matter and ask that you respond in writing by March 18, 2015 as to whether you are aware of any potential federal records that may be in your custody related to your work on any topic, at any time, as an official at the Department of State. We would also greatly appreciate knowing when you will be able to provide any records to the Department.

Sincerely,



Patrick F. Kennedy

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cc: William Fischer

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PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

March 16, 2015

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

Dear Under Secretary Kennedy:

I am responding to your letter dated March 11, 2015, requesting the assistance of my client, Cheryl Mills, in meeting the requirements of the March 4, 2015 subpoena directed to Secretary Kerry and in preserving any potential federal records in Ms. Mills's custody. I would be more than happy to help you with this request, but write to request an additional week to confer with Ms. Mills, until March 25, 2015, as I am at a hearing this week in New York and Ms. Mills is out of the country.

Very truly yours,



Beth A. Wilkinson

**UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON**

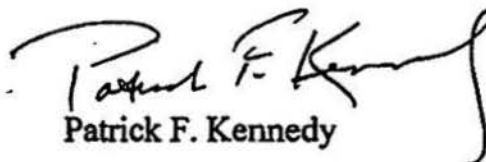
MAR 17 2015

Dear Ms. Wilkinson:

This is to acknowledge your letter dated March 16, 2015, on behalf of your client, Ms. Cheryl Mills, in which you requested an extension to March 25, 2015, in order to meet the requirements of the March 4, 2015 subpoena directed to Secretary Kerry.

Your request is hereby granted. I look forward to hearing from you on or before March 25.

Sincerely,


Patrick F. Kennedy

cc: William Fischer

Ms. Beth A. Wilkinson,
Paul, Weiss, Rifkind, Wharton & Garrett,
2001 K Street NW,
Washington, DC 20006-1047.

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NOT ADMITTED TO THE NEW YORK BAR

WRITER'S DIRECT DIAL NUMBER

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WRITER'S DIRECT FACSIMILE

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WRITER'S DIRECT E-MAIL ADDRESS

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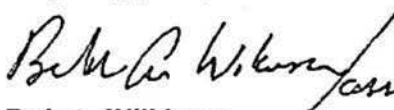
March 24, 2015

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

Dear Under Secretary Kennedy:

Thank you for giving us time to respond to your letter of March 11, 2015, requesting the assistance of our client, Cheryl Mills, in meeting the requirements of the March 4, 2015 subpoena directed to Secretary Kerry and in preserving any potential federal records in Ms. Mills' custody. We believe that Ms. Mills may have documents responsive to your letter, and will work with her to produce any such documents to you as soon as possible.

Very truly yours,



Beth A. Wilkinson

ETL 1030

**UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON**

June 2, 2015

Beth A. Wilkinson, Esq.
Paul, Weiss, Rifkind, Wharton & Garrison LLP
2001 K Street, NW
Washington, DC 20006

Dear Ms. Wilkinson:

I am writing in reference to my March 11, 2015, letter to your client, Ms. Mills, and to your subsequent letter, dated March 24, indicating that she may have responsive documents and that your firm would work with her to produce any such documents to the Department of State.

As indicated in my March 11 letter, the Department is interested in receiving any potential federal record relating to your client's work as a Department official that is in her possession if there is any reason to believe that it may not otherwise be preserved in the Department's recordkeeping system. In particular, I ask that you expedite production to the Department of any such document that is potentially responsive to the subpoena from the Select Committee on Benghazi that was attached to my letter. The Department is committed to producing responsive documents to the Committee as quickly as possible, but first must have an opportunity to review any such documents for information that may be protected from disclosure for privilege, privacy or other reasons.

Please advise whether you have identified potentially responsive documents and whether you expect to be able to produce any such documents by June 12. If you cannot produce documents by that date, please advise when you expect to be able to do so.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick F. Kennedy", with a stylized flourish at the end.

Patrick F. Kennedy

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June 25, 2015

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

Dear Under Secretary Kennedy:

I am further replying to your letter dated March 11, 2015, requesting the assistance of my client, Cheryl Mills, in meeting the requirements of the March 4, 2015 subpoena directed to Secretary Kerry and in preserving any potential federal records in Ms. Mills' custody.

Ms. Mills is in the process of providing documents in her possession to the Department of State that may potentially be federal records. Because Ms. Mills is tasked with searching through her entire personal email account over the course of several years for potential records, this process is not yet complete.

As you may know, Ms. Mills received a separate request on May 19, 2015 from the House Select Committee on Benghazi for "[a]ll documents that reflect any communication between you and any other person that refers to, relates to, or concerns the Attacks, any statement about the Attacks, or any response to the Attacks for the

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

Patrick F. Kennedy

2

period from September 11, 2012 through and including September 30, 2012.” On June 9, 2015, the House Select Committee expanded the dates of their request to January 1, 2011 to December 30, 2012.

We are making efforts to complete our review process as quickly as possible, but have understandably been slowed by Ms. Mills' international travel and my recent trial schedule. However, enclosed with this letter are all of the documents we have found to date that are potentially responsive to the House Select Committee's May letter. We hope to provide additional documents in Ms. Mills' possession from the broader time period on a rolling basis late next month.

Very truly yours,

A handwritten signature in black ink, appearing to read "Beth A. Wilkinson", with a long, sweeping horizontal line extending to the right.

Beth A. Wilkinson

June 29, 2015

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

Dear Under Secretary Kennedy:

We are writing in reply to your letter, dated March 11, 2015, requesting Ms. Huma Abedin's assistance in responding to a subpoena directed to Secretary John Kerry from the House Select Committee on Benghazi and in preserving any potential federal records in her possession relating to her work with the Department from 2009 to 2013. Ms. Abedin and we seek to be as helpful as possible and are working diligently to collect the documents requested.

As you may already know, our ability to respond unfortunately was slowed by circumstances beyond Ms. Abedin's control. The Department's initial correspondence, sent by mail and dated March 11, 2015, was returned undelivered to the Department on April 17, 2015. Similarly, we understand that your office attempted to send an electronic mail copy of that letter to Ms. Abedin, but that email was sent to domains (@clinton.senate.gov and @hillaryclinton.com) that, as of March 2015, had not been active for the past several years.

Your request ultimately reached Ms. Abedin through counsel on May 19, 2015, when we received your letter via mail, along with the returned envelope and a cover note dated May 12, 2015 explaining that the letter had been returned undelivered. As a consequence, Ms. Abedin received the Department's request for documents more than two months after it was initially intended to reach her.

On the same day that we received the Department's letter requesting the assistance of our client, we received a request directed to Ms. Abedin from the House Select Committee on Benghazi for "documents that reflect any communication between Huma Abedin and any other person that refers to, relates to, or concerns the Attacks, any statement about the Attacks, or any response to the Attacks for the period from September 11, 2012 through and including September 30, 2012."

On June 1, 2015, the Select Committee sent a letter superseding its earlier request to Ms. Abedin. The Committee's June 1 letter expanded the dates of its request to January 1, 2011 to December 31, 2012, as well as the scope of its request, to include "any and all documents and communications sent or received by [Ms. Abedin] from any and all non-State Department email address(es) she utilized, referring or relating to a) Libya (including but not limited to Benghazi and Tripoli), and/or b) weapons located or found in, imported or brought into, and/or exported or removed from Libya."

Since we received the Department's and the Committee's requests on May 19, we have been working diligently to respond. Of course, the delay in receipt of the Department's request and

Patrick F. Kennedy
Page 2 of 2
June 29, 2015

the simultaneous receipt of the Committee's request, subsequently expanded in date and scope, may mean that this process will take longer than the Department initially may have hoped. Nevertheless, we are on track to provide the Department documents responsive to the Select Committee's June 1, 2015 letter within the next several weeks and hope to work closely with the Department on a timetable for providing any other potential federal records in Ms. Abedin's possession.

We also understand that the Department is defending a lawsuit brought under the Freedom of Information Act (FOIA) regarding a request for a) copies of any updates and/or talking points given to Ambassador Rice by the White House or any federal agency concerning, regarding, or related to the September 11, 2012 attack on the U.S. consulate in Benghazi, Libya; and b) any and all records or communications concerning, regarding, or relating to talking points or updates on the Benghazi attack given to Ambassador Rice by the White House or any federal agency. To date, in the course of our review, we have not identified documents responsive to this FOIA request.

Sincerely,

/s/ Karen L. Dunn
Karen L. Dunn
Boies, Schiller & Flexner LLP
5301 Wisconsin Avenue, NW
Washington, DC 20015

/s/ Miguel E. Rodriguez
Miguel E. Rodriguez
Bryan Cave LLP
1155 F Street, NW
Washington, DC 20004

July 9, 2015

By Hand Delivery

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

Dear Under Secretary Kennedy:

We write in reply to your request for Ms. Huma Abedin's assistance in responding to a subpoena directed to Secretary John Kerry from the House Select Committee on Benghazi and in preserving any potential federal records in her possession relating to her work with the Department from 2009 to 2013.

As you know, Ms. Abedin and we have been diligently working to provide documents in response to a separate request from the Select Committee for "any and all documents and communications sent or received by [Ms. Abedin] from any and all non-State Department email address(es) she utilized, referring or relating to a) Libya (including but not limited to Benghazi and Tripoli), and/or b) weapons located or found in, imported or brought into, and/or exported or removed from Libya." The materials requested by the Select Committee, which relate to her work activities on behalf of the Department, are naturally a subset of those the Department has requested.

Enclosed herewith are documents identified by Ms. Abedin as responsive or potentially responsive to the Select Committee's request and therefore also to your request. As you may know, we alerted the Department earlier this week to expect this production and made the Department aware that the Select Committee has set a July 13, 2015 return date on its request to Ms. Abedin. We understand that the Department will conduct a privilege, privacy, and departmental review and, in turn, provide materials to the Select Committee. Inevitably, and due to Ms. Abedin's desire to be as helpful as possible, this production will include documents or portions of documents that are not federal records.

Finally, we have notified the Department that we are continuing to work on gathering the larger set of documents responsive to your broader request for potential federal records in Ms. Abedin's possession. We look forward to working with Department on a timetable and process for providing those additional documents.

Sincerely,



Karen L. Dunn
Boies, Schiller & Flexner LLP
5301 Wisconsin Avenue, NW
Washington, DC 20015



Miguel E. Rodriguez
Bryan Cave LLP
1155 F Street, NW
Washington, DC 20004

**UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON**

July 31, 2015

Karen L. Dunn
Boies, Schiller & Flexner LLP
5301 Wisconsin Avenue, NW
Washington, DC 20015

Miguel E. Rodriguez
Bryan Cave LLP
1155 F Street, NW
Washington, DC 20004

Dear Ms. Dunn and Mr. Rodriguez:

I am writing in reference to my March 11, 2015, letter requesting that, should your client, Ms. Huma Abedin, be aware or become aware of any federal record in her possession, she preserve and provide to the Department of State such record if there is any reason to believe that it may not otherwise be preserved in the Department's recordkeeping system. The Department appreciates your client's cooperation to date in identifying potential records and providing them to the Department.

For records management purposes, the Department asks that you and your client now take steps to return all copies of potential federal records in your possession to the Department as soon as possible. We understand that you and your client may wish to continue to have access to such documents if necessary to assist her in responding to congressional and related inquiries regarding the documents and her work at the Department. The Department is willing to permit you and your client such continued access given these ongoing inquiries. The Department can make arrangements for you and your client to access documents during regular working hours at the Department.

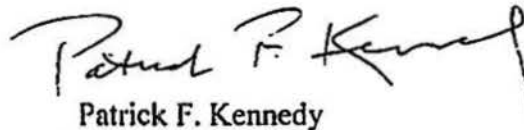
To the extent documents are stored electronically, we ask that you please copy them onto a digital video disc or compact disc. Once the copy has been made, please notify my office and we will arrange to pick up the storage medium. The Department asks that the documents be provided in original/native electronic format with the associated metadata. The Department's Office of Information Security (Frank Wilkins (571-345-3050)) will contact you regarding additional steps with respect to the disposition of your and/or your client's electronic copies of these documents.

-2-

Should you and your client have non-electronic copies of the documents, we ask that you box them up and notify my office so that we can arrange for their pickup.

In the event you have any questions regarding the transfer of the records to the Department, please contact the Agency Records Officer, William Fischer, at (202) 261-8369. In the meantime, I would appreciate it if you would confirm receipt of this letter in writing as soon as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick F. Kennedy". The signature is fluid and cursive, with a long, sweeping line extending from the end of the name.

Patrick F. Kennedy

**UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON**

July 31, 2015

Beth A. Wilkinson
Paul, Weiss, Rifkind, Wharton & Garrison LLP
2001 K Street, NW
Washington, DC 20006-1047

Dear Ms. Wilkinson:

I am writing in reference to my March 11, 2015, letter requesting that, should your client, Ms. Cheryl Mills, be aware or become aware of any federal record in her possession, she preserve and provide to the Department of State such record if there is any reason to believe that it may not otherwise be preserved in the Department's recordkeeping system. The Department appreciates your client's cooperation to date in identifying potential records and providing them to the Department.

For records management purposes, the Department asks that you and your client now take steps to return all copies of potential federal records in your possession to the Department as soon as possible. We understand that you and your client may wish to continue to have access to such documents if necessary to assist her in responding to congressional and related inquiries regarding the documents and her work at the Department. The Department is willing to permit you and your client such continued access given these ongoing inquiries. The Department can make arrangements for you and your client to access documents during regular working hours at the Department.

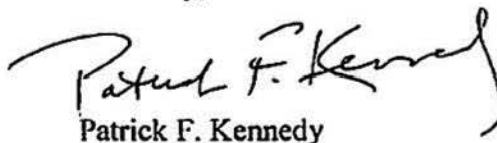
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Sincerely,

A handwritten signature in black ink, appearing to read "Patrick F. Kennedy". The signature is fluid and cursive, with a large, sweeping "P" and "K".

Patrick F. Kennedy