

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 STATUS REPORT**

Pursuant to the Court’s August 20, 2015 Minute Order, defendant U.S. State Department (“State”) submits this status report. In its minute order, the Court ordered State to “request that the Federal Bureau of Investigation (FBI) inform it about any information recovered from [former Secretary of State Hillary] Clinton’s server and the related thumb drive that is: (a) potentially relevant to the FOIA request at issue in this case; and (b) not already in the State Department’s possession.” The Court also ordered State to file a status report by September 21 on the following issues: “(1) the process agreed upon between the FBI and the State Department for the sharing of information relevant to this lawsuit; (2) the status of the Inspector General of the State Department’s report regarding Mrs. Clinton’s use of a private server; and (3) a timetable for the completion of any ongoing searches related to this lawsuit.” Aug. 20, 2015 Minute Order. The Court subsequently ordered State to include in its September 21 status report information about the volume of documents it has received from Cheryl Mills and Huma Abedin. Sept. 11, 2015 Minute Order.

I. Request to the FBI and Communications Between State and the FBI

On September 2, 2015, State sent a letter to the FBI, requesting that the FBI inform it about any information recovered from former Secretary Clinton's server and the related thumb drive that is potentially relevant to the FOIA request at issue in this case and is not already in State's possession. Sept. 2, 2015 letter, attached hereto as Exh. A. The letter summarized the scope of the FOIA request at issue in this case, and asked the FBI to respond in writing to this letter in advance of the due date of this status report. *Id.*

State sent a second letter to the FBI regarding these issues on September 14, 2015. In that letter, State first requested from the FBI "an electronic copy of the approximately 55,000 pages identified as potential federal records and produced on behalf of former Secretary Clinton to the Department of State on December 5, 2014." Sept. 14, 2015 letter, attached hereto as Exh. B. Second, State requested that, "to the extent the FBI recovers any potential federal records that may have existed on the server at various points in time in the past, [the FBI] apprise the [State] Department insofar as such records correspond with Secretary Clinton's tenure at the Department of State." *Id.* Third, State requested that, "[b]ecause of [State's] commitment to preserving its federal records, . . . any recoverable media and content be preserved by the FBI so that we can determine how best to proceed." *Id.*

On September 21, 2015, State received a response from the FBI to its September 2 letter. A copy of the FBI's response is attached hereto as Exhibit C. The substance of that response is as follows: "At this time, consistent with long-standing Department of Justice and FBI policy, we can neither confirm nor deny the existence of any ongoing investigation, nor are we in a position to provide additional information at this time." *Id.*

II. Status of the State Department Inspector General's Report

The State Department Office of Inspector General ("OIG") reports as follows with respect to the status of its investigation regarding former Secretary Clinton's use of a private server: In April 2015, OIG's Office of Evaluations and Special Projects began a review of State's policies and procedures concerning the use, if any, by the past five Secretaries (Albright through Kerry) and their immediate staffs of non-departmental hardware and software to conduct official business. The review is assessing, among other matters, efforts undertaken by State to ensure that: (i) communications were and are conducted securely; (ii) government records were and are properly identified and preserved; and (iii) government records were and are properly processed pursuant to the FOIA. OIG expects to issue multiple reports on these issues in the coming months.

OIG has already issued a series of memoranda in conjunction with the Inspector General for the Intelligence Community ("ICIG"), which are publicly available on OIG's website. In June 2015, OIG and ICIG conducted a review of the process that State was using to release former Secretary Clinton's emails under the FOIA. As a result of this joint review, on July 6, 2015, ICIG referred to the FBI's Counterintelligence Division issues associated with the classification of emails and documents by former Secretary Clinton and her immediate staff, and the existence of such classified information on the former Secretary's personal server.

III. Timetable for Completion of Ongoing Searches and Information About the Volume of Documents from Cheryl Mills and Huma Abedin

State anticipates that it will complete by October 20, 2015 the remaining searches of documents that are in State's possession and will then have a basis to estimate the volume of potentially responsive records that will require further review. This timeframe takes into account

the volume of additional documents State has received from Ms. Mills and Ms. Abedin, as discussed below, and the revised searches State is conducting, using the search terms and date range agreed upon by the parties, of the State Department offices and agency records systems that were initially searched (most of which are completed). See Defendant's July 30, 2015 Status Report (ECF No. 17) at 3. On September 18, 2015, State produced to Plaintiff 48 pages of responsive records from these offices and record systems.

In August and September 2015, Ms. Mills and Ms. Abedin, through counsel, provided State with additional emails from non-state.gov accounts. Ms. Mills delivered additional materials to State on August 10 and 12. On August 10, the Department received 120 megabytes of electronic files containing 666 email files and 106 attachment folders. On August 12, the Department received 100 megabytes of electronic files and hard copy documents consisting of approximately one cubic foot of paper records, comprising an estimated 3,000 pages. Ms. Abedin delivered additional materials to State on August 7 and September 1. On August 7, the Department received 35.5 megabytes of data consisting of one PDF file containing 2,185 pages of documents. On September 1, the Department received 1.4 gigabytes of electronic files containing 348 pages of documents and 6,714 emails. Further information regarding the documents received from Ms. Mills and Ms. Abedin is contained in the September 18 status report filed in Leopold v. State (C.A. no. 15-cv-123-RC), attached hereto as Exhibit D.

State is conducting searches of these newly provided documents, using the search terms and date range agreed upon by the parties. It searched Ms. Mills' August 10 production and found no responsive records, and it searched Ms. Abedin's August 7 production and likewise

found no responsive records.<sup>1</sup> State proposes to file a status report by October 26, 2015 in which it would propose a production deadline for any potentially responsive, non-exempt records based on the volume of responsive records identified by the search.

Dated: September 21, 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

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<sup>1</sup> The same is true for the documents that Ms. Mills and Ms. Abedin provided to State prior to August 2015. See July 30 Status Report at 2.



United States Department of State

Washington, D.C. 20520

September 2, 2015

James A. Baker  
General Counsel  
Federal Bureau of Investigations  
935 Pennsylvania Avenue, NW  
Washington, D.C. 20535-0001

Dear Mr. <sup>Ging</sup>Baker:

I am writing to you regarding a request the Department of State (“Department”) has been ordered to make of the Federal Bureau of Investigation (“FBI”) in a Freedom of Information Act (“FOIA”) case, *Judicial Watch v. Department of State* (D.D.C. No. 13-cv-1363).

The underlying FOIA request at issue in the above-referenced case seeks the following information:

- Any and all SF-50 (Notification of Personnel Action) forms for Huma Abedin;
- Any and all contracts (including, but not limited to, personal service contracts) between the Department of State and Ms. Abedin; and
- Any and all records regarding, concerning, or related to the authorization for Ms. Abedin to represent individual clients and/or otherwise engage in outside employment while employed by and/or engaged in a contractual arrangement with the Department of State.

Pursuant to the Court’s order of August 20, 2015 (the “Order”), a copy of which is attached, the Department requests that the FBI “inform it about any information recovered from [former Secretary Hillary] Clinton’s server and the related thumb drive that is: (a) potentially relevant to the FOIA request at issue in this case; and (b) not already in the Department’s possession.”

Please confirm receipt of this letter and respond to the above request for information in writing on or before September 14, 2015, as the Court has directed the Department to file a status report with the Court no later than September 21, 2015, informing the Court of “the process agreed upon between the FBI and the State Department for sharing of information relevant to this lawsuit.”

Sincerely,

A handwritten signature in blue ink that reads "Mary E. McLeod".

Mary E. McLeod  
Principal Deputy Legal Adviser



**From:** [DCD\\_ECFNotice@dcd.uscourts.gov](mailto:DCD_ECFNotice@dcd.uscourts.gov)  
**To:** [DCD\\_ECFNotice@dcd.uscourts.gov](mailto:DCD_ECFNotice@dcd.uscourts.gov)  
**Subject:** Activity in Case 1:13-cv-01363-EGS JUDICIAL WATCH, INC. v. DEPARTMENT OF STATE Order  
**Date:** Thursday, August 20, 2015 4:26:35 PM

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**This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.**

**\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

District of Columbia

#### Notice of Electronic Filing

The following transaction was entered on 8/20/2015 at 4:25 PM and filed on 8/20/2015

**Case Name:** JUDICIAL WATCH, INC. v. DEPARTMENT OF STATE

**Case Number:** [1:13-cv-01363-EGS](#)

**Filer:**

**Document Number:** No document attached

#### Docket Text:

**MINUTE ORDER.** For the reasons stated by the Court at the August 20, 2015 status hearing, and as agreed to by Defendant's counsel, the State Department is hereby ordered to request that the Federal Bureau of Investigation (FBI) inform it about any information recovered from Mrs. Clinton's server and the related thumb drive that is: (a) potentially relevant to the FOIA request at issue in this case; and (b) not already in the State Department's possession. The State Department shall file a status report, no later than Monday, September 21, 2015 at 12:00 p.m., informing the Court of the following: (1) the process agreed upon between the FBI and the State Department for the sharing of information relevant to this lawsuit; (2) the status of the Inspector General of the State Department's report regarding Mrs. Clinton's use of a private server; and (3) a timetable for the completion of any ongoing searches related to this lawsuit. Signed by Judge Emmet G. Sullivan on August 20, 2015. (lcegs4)

1:13-cv-01363-EGS Notice has been electronically mailed to:

Paul J. Orfanedes [porfanedes@judicialwatch.org](mailto:porfanedes@judicialwatch.org), [jwlegal@judicialwatch.org](mailto:jwlegal@judicialwatch.org)

Peter T. Wechsler [peter.wechsler@usdoj.gov](mailto:peter.wechsler@usdoj.gov)

Michael Bekesha mbekesha@judicialwatch.org, jwlegal@judicialwatch.org

**1:13-cv-01363-EGS Notice will be delivered by other means to::**



**UNDER SECRETARY OF STATE  
FOR MANAGEMENT  
WASHINGTON**

SEP 14 2015

Dear Mr. Comey:

We understand that the Federal Bureau of Investigation (FBI) has obtained the private server used by former Secretary Clinton to operate her personal email account along with one or more related thumb drives. While we do not want to interfere with the FBI's review, the Department of State has an interest in preserving its federal records and, therefore, requests the FBI's assistance.

On May 22, 2015, the Department requested from former Secretary Clinton's attorney, David Kendall, that he provide an electronic copy of the approximately 55,000 pages identified as potential federal records and produced on behalf of former Secretary Clinton to the Department of State on December 5, 2014. (See Enclosure A) On June 15, 2015, Mr. Kendall replied that, pursuant to my request, he would "copy onto a disc the electronic version of the e-mails previously produced in hard copy to the Department on December 5, 2014." (See Enclosure B) Before Mr. Kendall could provide that disc to the Department, however, we understand that the FBI obtained the relevant electronic media. Accordingly, we request from the FBI an electronic copy of the approximately 55,000 pages identified as potential federal records and produced on behalf of former Secretary Clinton to the Department of State on December 5, 2014. This request is in accordance with counsel we have received from the National Archives and Records Administration (NARA). (See Enclosure C)

Additionally, to the extent the FBI recovers any potential federal records that may have existed on the server at various points in time in the past, we request that you apprise the Department insofar as such records correspond with Secretary Clinton's tenure at the Department of State. Because of the Department's commitment to preserving its federal records, we also ask that any recoverable media and content be preserved by the FBI so that we can determine how best to proceed.

The Honorable  
James B. Comey,  
Director,  
Federal Bureau of Investigation,  
935 Pennsylvania Avenue, N.W.,  
Washington, D.C. 20535-0001.

-2-

We thank you in advance for your attention to this matter and look forward to coordinating with you.

Sincerely,



Patrick F. Kennedy

Enclosures:

As stated.

cc: James A. Baker, FBI/OGC  
Gary Stern, NARA/OGC

**UNDER SECRETARY OF STATE  
FOR MANAGEMENT  
WASHINGTON**

MAY 22 2015

CORRECTED COPY

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

Dear Mr. Kendall:

I am writing in reference to the following e-mail that is among the approximately 55,000 pages that were identified as potential federal records and produced on behalf of former Secretary Clinton to the Department of State on December 5, 2014: E-mail forwarded by Jacob Sullivan to Secretary Clinton on November 18, 2012 at 8:44 pm (Subject: Fw: FYI- Report of arrests – possible Benghazi connection).

Please be advised that today the above referenced e-mail, which previously was unclassified, has been classified as “Secret” pursuant to Section 1.7(d) of Executive Order 13526 in connection with a review and release under the Freedom of Information Act (FOIA). In order to safeguard and protect the classified information, I ask – consistent with my letter to you dated March 23, 2015 - that you, Secretary Clinton and others assisting her in responding to congressional and related inquiries coordinate in taking the steps set forth below. A copy of the document as redacted under the FOIA is attached to assist you in your search.

Electronic Records

- 1) Consistent with my March 23 letter, and to the extent the documents are stored electronically, please copy onto a digital video disc (DVD) or compact disc (CD) the approximately 55,000 pages. If available, the Department would ask that the documents be provided in native electronic format with the associated metadata. These steps are in accordance with counsel we have received from the National Archives and Records Administration.
- 2) Once the copy has been made place the disc(s) in a brown envelope, seal it, address it to Richard Visek, Deputy Legal Adviser, U.S. Department of State, Washington, D.C., and mark the word “SECRET” on the outside of that envelope. Once that is done, please notify us and we will pick up the envelope from your office.
- 3) **Once you have made the electronic copy of the documents for the Department, please locate any electronic copies of the above-referenced classified document in your possession. If you locate any electronic copies, please delete them. Additionally, once you have done that, please empty your “Deleted Items” folder.**



Non-Electronic Copies

- 1) Please locate any non-electronic copies of the classified document in your possession.
- 2) Place any copies of the document that you locate in a brown envelope, seal it, address it to Richard Visek, Deputy Legal Adviser, U.S. Department of State, Washington, D.C., and mark the word "SECRET" on the outside of that envelope. Once that is done, please notify us and we will pick up the envelope from your office.

Finally, please note that the classification of this document pursuant to Executive Order 13526, Section 1.7(d), does not in itself indicate that any person previously acted improperly with respect to the document or the information contained therein.

If you should have any questions regarding the steps set forth above, please contact Richard Visek in the Office of the Legal Adviser. In the meantime, I ask that you confirm receipt of this letter as soon as possible.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Patrick F. Kennedy". The signature is stylized with a large, sweeping initial "P" and a long, trailing flourish at the end.

Patrick F. Kennedy

LAW OFFICES  
**WILLIAMS & CONNOLLY LLP**

725 TWELFTH STREET, N.W.

WASHINGTON, D. C. 20005-5901

(202) 434-5000

FAX (202) 434-5029

DAVID E. KENDALL  
(202) 434-5145  
dkendall@wc.com

EDWARD BENNETT WILLIAMS (1920-1998)  
PAUL R. CONNOLLY (1920-1978)

*rec'd 6/15/15*

June 15, 2015

**BY HAND**

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 May 22, 2015, referencing an e-mail which former Secretary Clinton produced to the State Department on December 5, 2014 (e-mail forwarded by Jacob Sullivan to Secretary Clinton on November 18, 2012, at 8:44 pm (Subject: Fw: FYI-Report of arrests—possible Benghazi connection)). You note that this e-mail, while previously unclassified, was recently classified "Secret", pursuant to Section 1.7(d) of Executive Order 13526, following a Freedom of Information Act review by the State Department.

This will confirm receipt of your letter and that, pursuant to your request, we have located all non-electronic copies of this document in our possession and placed them in a sealed brown envelope, addressed to Deputy Legal Adviser Richard Visek. The envelope was picked up by a State Department representative on May 28, 2015.

This will also confirm that, pursuant to your request, we will copy onto a disc the electronic version of the e-mails previously produced in hard copy to the Department on December 5, 2014. We will arrange for delivery of this disc to the Department as requested in your letter.

This will also confirm that, pursuant to your request, we have deleted all electronic copies of this document, with the following exception. I have received document preservation requests pertaining to the 55,000 pages of e-mails from the House of Representatives Select Committee on Benghazi, the Inspector General of the State Department, and the Inspector General of the Intelligence Community (DNI). I have responded to each preservation request by confirming to the requestor that I would take

**WILLIAMS & CONNOLLY LLP**

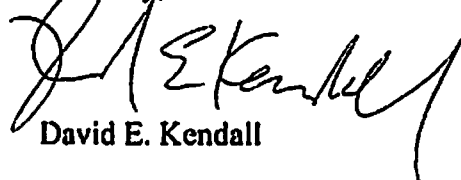
**Mr. Patrick F. Kennedy  
June 15, 2015  
Page 2**

**Department, and the Inspector General of the Intelligence Community (DNI). I have responded to each preservation request by confirming to the requestor that I would take reasonable steps to preserve these 55,000 pages of former Secretary Clinton's e-mails in their present electronic form. I therefore do not believe it would be prudent to delete, as you request, the above-referenced e-mail from the master copies of the PST file that we are preserving.**

**Once the document preservation requests referenced above expire, we will proceed to make the requested deletions. This present arrangement would cover the single document recently classified "Secret". Should there be further reclassifications during the Department's FOIA review of former Secretary Clinton's e-mails, it also would cover any such additional documents.**

**We would be grateful for the return of the 1246 e-mails which the Department, in consultation with the National Archives and Records Administration, has determined not to be federal records, as referenced in the May 6, 2015 letter from NARA's Paul Wester to Ms. Margaret Grafeld, Deputy Assistant Secretary for Global Information Services at the Department.**

**Sincerely,**



**David E. Kendall**

**DEK/bb**

**WILLIAMS & CONNOLLY LLP**

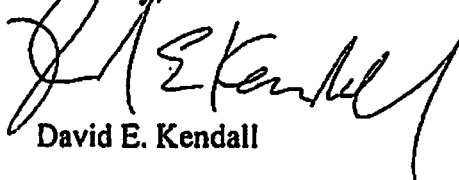
**Mr. Patrick F. Kennedy**  
**June 15, 2015**  
**Page 2**

Department, and the Inspector General of the Intelligence Community (DNI). I have responded to each preservation request by confirming to the requestor that I would take reasonable steps to preserve these 55,000 pages of former Secretary Clinton's e-mails in their present electronic form. I therefore do not believe it would be prudent to delete, as you request, the above-referenced e-mail from the master copies of the PST file that we are preserving.

Once the document preservation requests referenced above expire, we will proceed to make the requested deletions. This present arrangement would cover the single document recently classified "Secret". Should there be further reclassifications during the Department's FOIA review of former Secretary Clinton's e-mails, it also would cover any such additional documents.

We would be grateful for the return of the 1246 e-mails which the Department, in consultation with the National Archives and Records Administration, has determined not to be federal records, as referenced in the May 6, 2015 letter from NARA's Paul Wester to Ms. Margaret Grafeld, Deputy Assistant Secretary for Global Information Services at the Department.

Sincerely,



David E. Kendall

DEK/bb





**NATIONAL  
ARCHIVES**

**JUL 02 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:**

**I am in receipt of your letter of April 2, 2015, responding to the National Archives and Records Administration's (NARA) formal request of March 3, 2015, that you provide us with the report required in 36 CFR 1230.14 concerning the potential alienation of Federal email records created and received by former Secretary of State Hillary R. Clinton.**

**I appreciate the details you have provided to date; however, recognizing that the situation continues to be fluid, there are currently two major questions or concerns that the Department needs to address.**

**First, in your response you described and forwarded key policy directives issued by the Department in 2014, on records management in general, including specific guidance related to the management of email and other electronic records of senior agency officials. Related to these policies, I am requesting additional information on how the Department implemented these directives with senior officials. More specifically, we would like to understand the specific training, procedures, and other controls the Department employed to ensure the key directives were implemented. This will allow NARA to evaluate whether there are appropriate safeguards in place to prevent the alienation of records from occurring in the future.**

**Second, as we have discussed, I would like to reiterate our request that the Department contact the representatives of former Secretary Clinton to secure the native electronic versions with associated metadata of the approximately 55,000 hard copy pages of emails provided to the**

**NATIONAL ARCHIVES and  
RECORDS ADMINISTRATION**

**8601 ADELPHI ROAD  
COLLEGE PARK, MD 20740-6001**

**[www.archives.gov](http://www.archives.gov)**

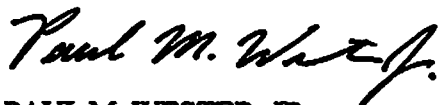
Department. If the Department is unable to obtain the electronic versions of these messages from Secretary Clinton, I am requesting that the Department inquire with the internet service or email provider of former Secretary Clinton, and also of former Secretary Powell, with regard to whether it is still possible to retrieve the email records that may still be present on their servers. As stated in the OMB/NARA M-12-18 *Managing Government Records Directive*, Federal agencies are required by the end of 2016 to maintain all electronic records, including email, in their native electronic format to facilitate active use and future access.

I am aware that there are multiple ongoing inquiries into the details of this case, including by Congressional oversight committees and the Department's Inspector General, which may already be addressing the requests that I have made. I would therefore appreciate continuing updates on the current status of these activities to the extent possible, particularly where the investigations may reveal that the collection Secretary Clinton provided to the Department is incomplete. I also look forward to receiving copies of the final reports of all such investigations, as well as the Department's plans for corrective action. This documentation will assist us in understanding this situation and the Department plans to ensure a comparable situation will not happen in the future.

In closing, I would like to convey my appreciation for the Department's efforts in following up with the representatives of the former Secretary on the many concerns that have surfaced in the past several months. We share many of the Department's concerns and stand ready to provide advice when needed on the records management issues that arise.

I look forward to receiving your response and appreciate your continued attention to this matter.

Sincerely,



PAUL M. WESTER, JR.  
Chief Records Officer  
for the U.S. Government

cc: Ambassador Patrick F. Kennedy  
Under Secretary for Management  
Senior Agency Official for Records Management  
U.S. Department of State  
Washington, DC 20520



**U.S. Department of Justice**

Federal Bureau of Investigation

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In Reply, Please Refer to  
File No.

September 21, 2015

Mary McLeod, Esq.  
U.S. Department of State  
2201 C Street, NW  
Washington, DC 20520

*Mary*  
Dear Ms. McLeod:

I have received your letter dated September 2, 2015 regarding the FOIA case, *Judicial Watch v. Department of State* (D.D.C. No. 13-cv-1363) and your request for information pursuant to the Court's order of August 20, 2015. I understand that the Bureau's response to your letter may be presented to the Court. At this time, consistent with long-standing Department of Justice and FBI policy, we can neither confirm nor deny the existence of any ongoing investigation, nor are we in a position to provide additional information at this time.

Sincerely,

A handwritten signature in blue ink that reads "James A. Baker". The signature is fluid and cursive.

James A. Baker  
General Counsel

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

JASON LEOPOLD,

*Plaintiff,*

v.

U.S. DEPARTMENT OF STATE,

*Defendant.*

Civil Action No. 15-cv-123 (RC)

**DEFENDANT'S STATUS REPORT**

Defendant U.S. Department of State ("State"), in response to the Court's Minute Order of September 11, 2015, respectfully submits this status report:

1. The parties, by agreement, have limited the FOIA request (the "narrowed FOIA request") to (1) all records provided to State by former Secretary of State Clinton as described in Paragraph 10 of the Declaration of John F. Hackett (ECF No. 12-1) ("the Clinton emails"), and (2) all records from the files of several former State officials (some identified by name, some by title) ("the custodians") related to 11 enumerated topics. *See* Order of May 27, 2015 (ECF No. 16).

2. Three of these custodians, Cheryl Mills, Huma Abedin, and Phillippe Reines, recently provided documents to State that must be searched for records responsive to part (2) of the narrowed FOIA request. At the status conference held on September 11, 2015, undersigned counsel told the Court that, before State can search the recently provided documents, it must take steps to make them electronically searchable. The Court then ordered State to file this status report detailing "(1) the estimated number of documents that have been provided by former State Department employees Phillippe Reines, Huma Abedin, and Cheryl Mills, respectively, and (2)

how far each of those groups of documents has progressed through the five-step scanning process outlined in [12-1] the Declaration of John H. Hackett [(‘Hackett Declaration’)].” In addition, this status report provides additional information about two questions that the Court asked at the status conference: (1) what declarations have been filed in the various cases that address the Clinton emails; and (2) whether plaintiffs who have filed new FOIA cases that address the Clinton emails have been attempting to relate those new cases to some, but not all, of the existing cases that also address those emails.

### **STATUS OF DOCUMENT PROCESSING**

3. The recently provided documents were received from Ms. Abedin, Ms. Mills, and Mr. Reines in a variety of formats, some paper, some electronic.<sup>1</sup> For this reason, and because State is running searches across the entirety of these collections for purposes of the specific FOIA request but is not reviewing the entirety of these collections for public release, State has tailored the steps it is taking to prepare the documents for electronic searching for individual FOIA requests so that those searches can be completed as quickly as possible. Thus, these steps differ from the five-step process described in the Hackett Declaration that was used to scan and digitize the Clinton emails.

4. Ms. Abedin made three separate submissions of documents; the last submission arrived on September 1, 2015. In total, Ms. Abedin provided the following types of documents: (1) three PDFs containing emails, memos, daily schedules, call lists, notes, and other types of documents, totaling 2,871 pages; and (2) 6,714 individual PDFs, each containing one email of an unknown number of pages. Using an estimate of three pages per email, and adding the 2,871

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<sup>1</sup> Ms. Mills, Ms. Abedin, and Mr. Reines have indicated that they have produced to State all potential federal records in their possession.

pages from the three PDFs described in (1), results in a total estimate of approximately 23,000 pages provided by Ms. Abedin. These documents have been loaded onto State's network and stored such that they are electronically searchable at this time.

5. Mr. Reines provided approximately 70,000 pages in hardcopy form on July 28, 2015.<sup>2</sup> After conducting an initial assessment of the contents of these documents, which comprised 20 boxes, State learned that a large subset of the materials consists of press clippings assembled by the Department on a daily basis and forwarded to Mr. Reines' personal email account; these documents are not responsive to part (2) of the narrowed FOIA request and do not, therefore, need to be made electronically searchable for purposes of this case.<sup>3</sup> Those portions of the materials that are *not* press clippings, totaling approximately 16,000 pages, have been loaded onto State's case management system and are electronically searchable at this time.

6. Ms. Mills made three separate submissions of documents; the last submission arrived on August 12, 2015. In total, Ms. Mills provided the following types of documents: (1) approximately 675 emails of unknown size; (2) approximately 1,370 electronic documents of various other types, such as Microsoft Word and PowerPoint files; and (3) one cubic foot box of paper documents, consisting of an estimated 3,000 pages. Using estimates of 3 pages per email and 5 pages per other type of document, State has received a total of approximately 11,870 pages of documents from Ms. Mills. The approximately 2,045 documents described in (1) and (2) have been loaded onto State's network and stored such that they are electronically searchable. To

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<sup>2</sup> Mr. Reines later provided the same documents in electronic format as TIFF (Tagged Image File Format) files, a format commonly used for scanned images. At that point, however, the scanning had proceeded far enough along that State believed it to be faster to continue using the paper copies to load Mr. Reines's documents.

<sup>3</sup> Counsel for Plaintiff has confirmed via email that State should interpret part (2) of the narrowed FOIA request to exclude "[p]ublic media articles, public news videos, public news images, or summaries of any of the preceding that may have been circulated within State." See Email from Counsel at 1, attached.

convert the 3,000 pages of paper documents described in (3) to an electronically searchable form, State must scan the documents into searchable PDFs. State anticipates completing this process by September 25, 2015.<sup>4</sup>

#### **DECLARATIONS RELATED TO FOIA PROCESSING AT STATE**

7. At the September 11 status conference, the Court asked undersigned counsel if there were other declarations related to the Clinton emails and the recently provided documents, other than those by John F. Hackett that have been filed or cited in this case. There have been two such declarations filed in *Judicial Watch v. U.S. Dep't of State*. See Declaration of Joseph E. McManus, Civ. No. 13-1363 (EGS) (ECF No. 29-1) (D.D.C. Aug. 19, 2015); Declaration of Hillary Rodham Clinton, Civ. No. 13-1363 (EGS) (ECF No. 22-1) (D.D.C. Aug. 10, 2015).

#### **RECENT DESIGNATION OF RELATED CASES BY FOIA PLAINTIFF**

8. At the September 11 status conference, the Court asked undersigned counsel if he was aware of plaintiffs who had recently filed FOIA cases as related to some of the other Clinton-email-related cases. Counsel told the Court he was not aware of any such cases. Since that time, counsel has become aware of *Freedom Watch v. U.S. Dep't of State*, Civ. No. 15-1264 (RJL) (D.D.C. filed Aug. 6, 2015), in which the plaintiff asserted that the new case was related to two earlier cases on the grounds that they “involve[] common issues of fact.” See Notice of Designation of Related Civil Cases, *Freedom Watch* (ECF No. 1-2) (asserting that the newly filed case is related to *Associated Press v. U.S. Dep't of State*, Civ. No. 15-345 (RJL), and

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<sup>4</sup> While State anticipates the documents will be stored in an electronically searchable format by that date, there is still significant effort required to search for potentially responsive documents and to then review them for responsiveness and exemptions before non-exempt portions of responsive documents recently provided by Ms. Abedin, Ms. Mills, and Mr. Reines can begin to be produced.



*Freedom Watch v. Nat'l Security Agency, et al.*,<sup>5</sup> Civ. No. 14-1431 (RJL)). State has filed its objection to that related case designation. Defendant's Objection to Related Case Designation, *Freedom Watch* (ECF No. 6) (D.D.C. Sep. 18, 2015).

Date: September 18, 2015

Respectfully submitted,

BENJAMIN C. MIZER  
Principal Deputy Assistant Attorney General

MARCIA BERMAN  
Assistant Branch Director

/s/ Robert J. Prince

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*Counsel for Defendant*

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<sup>5</sup> State is not a defendant in this case.

## Prince, Robert (CIV)

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**From:** Ryan James <rsjameslaw@gmail.com>  
**Sent:** Thursday, September 17, 2015 5:15 PM  
**To:** Prince, Robert (CIV)  
**Cc:** Jeffrey Light  
**Subject:** RE: 15-cv-123 Search Priorities

Hi Rob,

Yes, please do apply that exclusion.

Ryan

On Sep 17, 2015 4:11 PM, "Prince, Robert (CIV)" <[Robert.Prince@usdoj.gov](mailto:Robert.Prince@usdoj.gov)> wrote:

Ryan,

Thank you for the list of priorities. I wanted to clarify one thing. In the first email you sent concerning the scope of search, you instructed State to "interpret the FOIA request to EXCLUDE . . . [p]ublic media articles, public news videos, public news images, or summaries of any of the preceding that may have been circulated within DOS." I wanted to confirm that State should abide by that instruction as it conducts searches for records responsive to part (2) of the Narrowed FOIA Request. At least with respect to the documents recently provided by Mr. Reines, this could make the search process much more efficient.

I will let you know if we have any additional questions.

Best,

Rob

**From:** Ryan James [mailto:[rsjameslaw@gmail.com](mailto:rsjameslaw@gmail.com)]  
**Sent:** Thursday, September 17, 2015 1:03 AM  
**To:** Prince, Robert (CIV)  
**Cc:** Jeffrey Light  
**Subject:** 15-cv-123 Search Priorities

Hi Rob,

Pursuant to the Court's Minute Order of Sept. 11, attached please find Plaintiff's search priorities for records responsive to part (2) of the Narrowed FOIA Request.

Please let me know if any aspect of Plaintiff's priorities is unclear. Please note that the attached list was based on our current understanding of how records are categorized and maintained at State. Mr. Leopold's list reflects State's indication that additional time is necessary for the [non-state.gov](http://non-state.gov) emails to be processed, and to allow for an overall efficient search and review process.

Best,

Ryan