

# **EXHIBIT 5**

**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,



Patrick F. Kennedy

LAW OFFICES  
**WILLIAMS & CONNOLLY LLP**  
725 TWELFTH STREET, N.W.

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

WASHINGTON, D. C. 20005-5901  
(202) 434-5000  
FAX (202) 434-5029

EDWARD BENNETT WILLIAMS (1928-1980)  
PAUL R. CONNOLLY (1928-1978)

*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

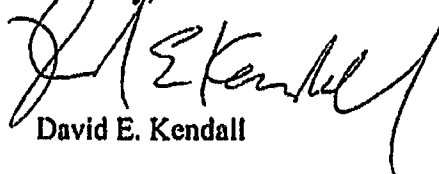
Page 2

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,

A handwritten signature in black ink, appearing to read "D. E. Kendall", written in a cursive style.

David E. Kendall

DEK/bb

**WILLIAMS & CONNOLLY LLP**

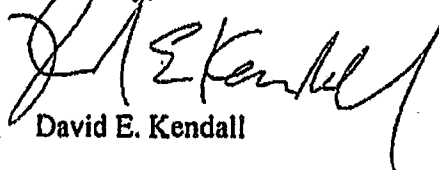
**Mr. Patrick F. Kennedy**  
**June 15, 2015**  
**Page 2**

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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)**

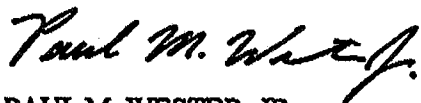
Department. If the Department is unable to obtain the electronic versions of these messages from Secretary Clinton, I am requesting that the Department inquire with the internet service or email provider of former Secretary Clinton, and also of former Secretary Powell, with regard to whether it is still 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