

RON JOHNSON, WISCONSIN, CHAIRMAN

ROB PORTMAN, OHIO
RAND PAUL, KENTUCKY
JAMES LANKFORD, OKLAHOMA
MITT ROMNEY, UTAH
RICK SCOTT, FLORIDA
MICHAEL B. ENZI, WYOMING
JOSH HAWLEY, MISSOURI

GARY C. PETERS, MICHIGAN
THOMAS R. CARPER, DELAWARE
MAGGIE HASSAN, NEW HAMPSHIRE
KAMALA D. HARRIS, CALIFORNIA
KYRSTEN SINEMA, ARIZONA
JACKY ROSEN, NEVADA

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

GABRIELLE D'ADAMO SINGER, STAFF DIRECTOR
DAVID M. WEINBERG, MINORITY STAFF DIRECTOR

February 5, 2020

The Honorable Michael R. Pompeo
Secretary of State
2201 C Street, NW
Washington, DC 205020

Dear Secretary Pompeo:

Thank you for the briefing that the Department of State (Department) provided regarding the administrative review of the handling of classified information on former Secretary of State Hillary Clinton's private email server.¹ The report by the Diplomatic Security Office of Information Security found 91 security violations attributable to 38 employees, and an additional 497 security violations where no individual was found culpable.² Since March 2015, I have conducted oversight of Clinton's private email server, including oversight of the Federal Bureau of Investigation's (FBI) investigation of it.³ As part of that continued oversight, I write to request additional information about the Department's September 2019 report.

According to the report, in December 2014, representatives of former-Secretary Clinton provided the Department with approximately 33,000 individual emails from the private email server Clinton used during her tenure.⁴ In May 2015, the Department discovered that "information in certain emails was classified at th[at] time" and there were questions "as to whether there was information that should have been or was classified at the time the emails were sent."⁵ I agree with the Department that "any violation of security policies [is] a serious matter."⁶ As a result, your report states that "the unprecedented nature and scale of this event posed many significant challenges" for the Department's investigation.⁷ These challenges included a four-month pause requested by the FBI and a "significant break in time (five to nine years) between when the incidents occurred and when [individuals] were reviewed."⁸ That

¹ Letter from Mary Elizabeth Taylor, Assistant Sec'y, Bureau of Leg. Affairs, U.S. Dep't of State, to Charles E. Grassley, S. Comm. on Finance (Oct. 16, 2019); Attachment, DS Office of Info. Sec., U.S. Dep't of State, DS Report on Security Incidents Related to Potentially Classified Emails sent to Former Secretary of State Clinton's Private Email Server (Sept. 13, 2019) ("DS Report").

² *Id.* at 7.

³ See S. Comm. on Homeland Sec. & Gov't Affairs, Maj. Staff Rep: The Clinton Email Scandal and the FBI's Investigation of It (2018).

⁴ DS Report at 3.

⁵ *Id.*

⁶ Letter from Mary Elizabeth Taylor, Assistant Sec'y, Bureau of Leg. Affairs, U.S. Dep't of State, to Charles E. Grassley, S. Comm. on Finance (Jun. 5, 2019).

⁷ DS Report at 6.

⁸ *Id.* at 3, 6.

meant, among other things, that “many of the individuals [were] unavailable to be interviewed at all, as they have moved on from the Department and could not be reached.”⁹

It is unfortunate that the Department was unable to interview all the individuals needed to assess the extent to which Department employees mishandled classified information. Interestingly, a prosecutor who worked on the FBI’s investigation of Clinton’s private email server told the Department of Justice Office of Inspector General, “the problem was the State Department was so screwed up in the way they treated classified information that if you wanted to prosecute Hillary Clinton, you would have had to prosecute 150 State Department people.”¹⁰ The seemingly widespread and pervasive nature of these security violations, especially for the handling of classified information, is simply unacceptable.

In order to better understand the results of the Department’s review of former-Secretary Clinton’s private email server, the identified security violations, and the adjudication of these security violations, please provide the following information:

1. The name and title of the “dozens of past and present [Department] employees and senior officials” whom were contacted as part of this review.¹¹
2. The name and title of the 38 individuals who committed a valid security violation. Please indicate whether each person continues to work at the Department. For each of these individuals, please also:
 - a. indicate whether the Department was able to interview that person for their report;
 - b. identify which of the 91 valid violations were attributed to each individual and summarize each of those valid violations; and
 - c. indicate what administrative or disciplinary action was imposed on each individual.
3. Please identify all individuals involved in “instances of classified information being inappropriately introduced into an unclassified system in furtherance of expedience,” and all individuals involved in “[i]nstances of classified information being deliberately transmitted via unclassified email[.]”¹²
4. Identify all individuals who were a subject of this review and held original classification authority.¹³

⁹ *Id.* at 6.

¹⁰ U.S. Dep’t of Justice, Office of Inspector Gen., A Review of Various Actions by the Federal Bureau of Investigation and Department of Justice in Advance of the 2016 Election 256 (June 2018) (“DOJ OIG Report”); Letter from Steve A. Linick, Inspector Gen., U.S. Dep’t of State, Office of Inspector Gen., to Ron Johnson, S. Comm. on Homeland Sec. & Gov’t Affairs (Aug. 22, 2018) (finding that “at least 60 Departmental officials exchanged emails with Secretary Clinton on her personal email account.”).

¹¹ DS report at 3.

¹² *Id.* at 8.

¹³ *Id.* at 7.

5. The report stated that the Department had trouble interviewing “many” individuals because of the lapse of time between when the incidents occurred and when they were reviewed.¹⁴ The Department noted that “many of the individuals [were] unavailable to be interviewed at all, as they have moved on from the Department and could not be reached.”¹⁵ Please identify all of the individuals that the Department would have liked to interview but whom were unavailable. Please distinguish between individuals whom you contacted but they declined to be interviewed, and individuals whom you were not able to contact.
6. The report described “[i]nstances of classified information being deliberately transmitted via unclassified email ... [that] resulted in adjudicated security violations.”¹⁶
 - a. How many instances did the Department find where classified information was deliberately transmitted via unclassified email?
 - b. Please identify the individuals involved in each such deliberate transmission and describe the information transmitted.
 - c. How did the Department determine whether classified information was deliberately sent on improper channels?
7. The Department’s report stated that “none of the emails at issue in this review were marked as classified.”¹⁷ However, in a response from Department of Justice (DOJ) Inspector General Horowitz to the Committee, he explained three email chains from former-Secretary Clinton contained the “(C)” markings.¹⁸ Did the Department review these or any other email chains that contained the “(C)” markings?
8. In light of all of the specialized equipment used by the U.S. government to handle, process, and store classified information, please explain the reasoning behind the statement in the report that “the use of private email system itself did not necessarily increase the likelihood of classified information being transmitted on unclassified systems[.]”¹⁹
 - a. The Department’s report stated that it “uncovered no persuasive evidence of systemic misuse relative to the deliberate introduction of classified information to unclassified systems.”²⁰ Please explain the reasoning behind this assessment, especially in light of the decision to set up a private email server for a U.S. government official who regularly transmits classified information and the finding that there were, in fact, “[i]nstances of classified information being deliberately transmitted via [this] unclassified email[.]”²¹

¹⁴ *Id.* at 6.

¹⁵ *Id.*

¹⁶ *Id.* at 8.

¹⁷ *Id.* at 6.

¹⁸ Letter from Michael E. Horowitz, Inspector Gen., U.S. Dep’t of Justice, Office of Inspector Gen., to Ron Johnson, S. Comm. on Homeland Sec. & Gov’t Affairs (Aug. 14, 2018).

¹⁹ DS Report at 8.

²⁰ *Id.*

²¹ *Id.*

9. During the Department's review of potential security violations, did it review email communications between former-Secretary Clinton and President Obama?
 - a. If so, how many such emails between these individuals did the Department review?
 - b. Did the Department determine whether any of these communications constituted a security violation?
10. Were former-Secretary Clinton, Cheryl Mills, Huma Abedin, Heather Samuelson, or Jake Sullivan involved in any of the 497 security violations for which the Department decided not to hold anyone culpable? If so, please identify all such violations for each individuals, describe the violation, and explain the reasoning for not finding culpability.
11. According to the DOJ Office of Inspector General report, the FBI was unable to obtain emails from former-Secretary Clinton's first two months as Secretary of State (January 21, 2009 through March 18, 2009).²² Did the Department examine this gap? If so, what did it find?
12. According to the DOJ Office of Inspector General, Prosecutor 4 stated: "My view was and still remains that the private email server was set up [by Clinton] to avoid FOIA."²³ Did the Department review whether former-Secretary Clinton set up the private server in an effort to "avoid FOIA?" If so, what did the Department find?
13. After the discovery of the private email server, did the Department send instructions to former-Secretary Clinton or her staff with respect to the transmission of classified materials? If so, what were those instructions, who transmitted them, and when were they sent?
14. When and how did the Department first become aware that former-Secretary Clinton emailed exclusively on a private email server? Who at the Department was made aware of this?
 - a. Please provide a timeline of the steps the Department took immediately following this discovery. In the timeline, please include the names and titles of the relevant Department employees involved.

Please provide responses to these requests as soon as possible but no later than February 20, 2020.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate "the efficiency, economy, and effectiveness of all agencies and departments of the Government."²⁴ Additionally, Senate Resolution 70 (116th Congress) authorizes the Committee to examine "the efficiency and economy of operations of all branches and functions of the Government with particular

²² DOJ OIG Report at 73-73.

²³ DOJ OIG Report at 259.

²⁴ S. Rule XXV; *see also* S. Res. 445, 108th Cong. (2004).

references to (i) the effectiveness of present national security methods, staffing, and processes[.]”²⁵

If you have any questions about this request, please ask your staff to contact Brian Downey or Scott Wittmann of the Committee staff at (202) 224-4751. Thank you for your attention to this matter.

Sincerely,



Ron Johnson
Chairman

cc: The Honorable Gary Peters
Ranking Member

The Honorable Steve A. Linick
Inspector General

²⁵ S. Res. 70, 116th Cong. § 12(e)(1)(E) (2019).