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EDWARD BENNETT WILLIAMS (1920-1988)
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April 22, 2015

BY FIRST-CLASS SURFACE AND ELECTRONIC MAIL

The Honorable Trey Gowdy
United States House of Representatives
Select Committee on Benghazi
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter dated March 31, 2015.

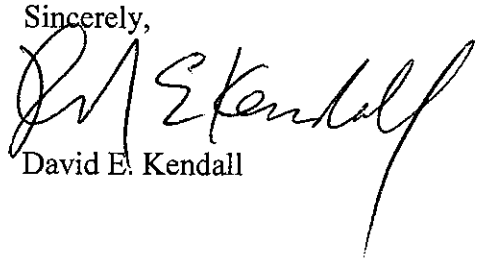
In November, I informed your staff of Secretary Clinton's willingness to testify publicly before the Select Committee on Benghazi. In the succeeding months, she has reiterated her willingness, and I do so again on her behalf. There is no reason to delay her appearance or to have her testify in a private interview.

Your March 31 letter asserts that "many questions and details" about the Secretary's e-mail use remain unanswered in several areas. I respectfully submit that these questions have already been publicly answered by Secretary Clinton. I am attaching hereto the questions and answers the Secretary's Office released to the public on March 10, 2015 (Appendix A), as well my letter to you, dated March 27, 2015 (Appendix B), both of which respond to the matters raised in your letter.

While Secretary Clinton has testified before Committees in both the House and the Senate about the tragic events in Benghazi, she has made clear that she will

voluntarily testify publicly again before the Select Committee, and at that time, is happy to continue to answer any questions the Select Committee may have about her e-mail use.

Sincerely,



David E. Kendall

cc: The Honorable Elijah Cummings
Dana K. Chipman, Esq.
Heather Sawyer, Esq.

APPENDIX A

OFFICE OF
HILLARY RODHAM CLINTON

We wanted to take this opportunity, given how much information has been circulating, to provide the best information we have about an understandably confusing situation. This document is on-the-record as "Statement from the Office of Former Secretary Clinton."

Background

Like Secretaries of State before her, Secretary Clinton used her own email account when engaging with State Department officials. For work, it was her practice to email them on their ".gov" accounts, with every expectation those emails would be captured and preserved immediately in the Department's system.

When the Department asked former Secretaries last year for help ensuring that their work emails were in fact retained, she said yes and provided printed copies of all of her work-related emails. She has since asked the Department to make the emails she provided available to the public.

She is proud of the work that she and the public servants at the Department did during her four years as Secretary of State and looks forward to people being able to see that for themselves.

Why did she use her own email account?

As the Secretary has said publicly, when she got to the Department, she wanted the simplicity of using one device. She opted to use her personal email account as a matter of convenience; it enabled her to reach people quickly and keep in regular touch with her family and friends more easily given her travel schedule. That is the only reason she used her own account. Her usage was widely known to the over 100 Department and U.S. government colleagues she emailed, as her address was visible on every email she sent. To address requirements to keep records of her work emails, it was her practice to email government officials on their ".gov" accounts. That way, they would be immediately captured and preserved in the Department's system.

Was this allowed?

Yes. The laws and regulations allowed her to use her own email for work.

Under the Federal Records Act, records are defined as recorded information, regardless of its form or characteristics, "made or received by a Federal agency under Federal law or in connection with the transaction of public business." [44 U.S.C. § 3301]. In 2009, the National Archives and Record Administration issued guidance reaffirming a prior regulation (36 CFR § 1234.24) on the need to preserve work emails.

In meeting the record-keeping obligations, it was Secretary Clinton's practice to email government officials on their ".gov" accounts, so her work emails were immediately captured and preserved.

Was she ever provided guidance about her use of a non-".gov" email account?

The Department has and did provide guidance regarding the need to preserve federal records, which included her work emails. To address requirements to keep records of her work emails, it was her practice to email government employees on their ".gov" email address. That way, work emails would be immediately captured and preserved in government record-keeping systems.

What did Secretary Clinton provide to the Department?

On December 5, 2014, 30,490 printed copies of work-related emails sent and received by Secretary Clinton from March 18, 2009 to February 1, 2013 were provided to the Department. This totaled roughly 55,000 pages. About 90% of these emails were already in the Department's record-keeping system because they were sent to or received by "state.gov" accounts

[Before March 18, 2009, Secretary Clinton continued using the email account she had used during her Senate service. Given her practice from the beginning of emailing Department officials on their state.gov accounts, her work-related emails during these initial weeks would have been captured and preserved in the Department's record-keeping system. She, however, no longer had access to these emails once she transitioned from this account.]

Why did the Select Committee announce that she used multiple email addresses during her tenure?

In fairness to the Committee, this was an honest misunderstanding. Secretary Clinton used one email account during her tenure at State (with the exception of her first weeks in office while transitioning from an email account she had previously used). In March 2013, a month after she left the Department, Gawker published the email address she used while Secretary, and so she had to change the address on her account.

At the time the printed copies were provided to the Department last year, because it was the same account, the new email address established after she left office appeared on the printed copies as the sender, and not the address she used as Secretary. In fact, this address on the account did not exist until March 2013. This led to understandable confusion that was cleared up directly with the Committee after its press conference.

Why did the Department ask for assistance? Why did the Department need assistance in further meeting its requirements under the Federal Records Act?

The Department formally requested the assistance of the four previous former Secretaries in a letter to their representatives dated October 28, 2014 to help in furtherance of meeting the Department's requirements under the Federal Records Act.

The letter stated that in September 2013, the National Archives and Records Administration (NARA) issued new guidance clarifying records management responsibilities regarding the use of personal email accounts for government business.

While this guidance was issued after all four former Secretaries had departed office, the Department decided to ensure its records were as complete as possible and sought copies of work emails sent or received by the Secretaries on their own accounts.

Why was the Department given printed copies?

That is the requirement. The instructions regarding electronic mail in the Foreign Affairs Manual require that "until technology allowing archival capabilities for long-term electronic storage and retrieval of E-mail messages is available and installed, those messages warranting preservation as records (for periods longer than current E-mail systems routinely maintain them) must be printed out and filed with related records." [5 FAM 443.3].

Were any work items deleted in the course of producing the printed copies?

No.

How many emails were in her account? And how many of those were provided to the Department?

Her email account contained a total of 62,320 sent and received emails from March 2009 to February 2013. Based on the review process described below, 30,490 of these emails were provided to the Department, and the remaining 31,830 were private, personal records.

How and who decided what should be printed and provided to the Department?

The Federal Records Act puts the obligation on the government official to determine what is and is not a federal record. The State Department Foreign Affairs Manual outlines guidance "designed to help employees determine which of their e-mail messages must be preserved as federal records and which may be deleted without further authorization because they are not Federal record materials." [5 FAM 443.1(c)].

Following conversations with Department officials and in response to the Department's October 28, 2014 letter to former Secretaries requesting assistance in meeting the Department's record-keeping requirements, Secretary Clinton directed her attorneys to assist by identifying and preserving all emails that could potentially be federal records. This entailed a multi-step process to provide printed copies of the Secretary's work-related emails to the Department, erring on the side

of including anything that might potentially be a federal record. As the State Department has said, Secretary Clinton was the first to respond to this letter.

A search was conducted on Secretary Clinton's email account for all emails sent and received from 2009 to her last day in office, February 1, 2013.

After this universe was determined, a search was conducted for a ".gov" (not just state.gov) in any address field in an email. This produced over 27,500 emails, representing more than 90% of the 30,490 printed copies that were provided to the Department.

To help identify any potential non-".gov "correspondence that should be included, a search of first and last names of more than 100 State Department and other U.S. government officials was performed. This included all Deputy Secretaries, Under Secretaries, Assistant Secretaries, Ambassadors-at-Large, Special Representatives and Envoys, members of the Secretary's Foreign Policy Advisory Board, and other senior officials to the Secretary, including close aides and staff.

Next, to account for non-obvious or non-recognizable email addresses or misspellings or other idiosyncrasies, the emails were sorted and reviewed both by sender and recipient.

Lastly, a number of terms were specifically searched for, including: "Benghazi" and "Libya."

These additional three steps yielded just over another 2,900 emails, including emails from former Administration officials and long-time friends that may not be deemed by the Department to be federal records. And hundreds of these emails actually had already been forwarded onto the state.gov system and captured in real-time.

With respect to materials that the Select Committee has requested, the Department has stated that just under 300 emails related to Libya were provided by the Department to the Select Committee in response to a November 2014 letter, which contained a broader request for materials than prior requests from the House Oversight and Government Reform Committee.
Given Secretary Clinton's practice of emailing Department officials on their state.gov addresses, the Department already had, and had already provided, the Select Committee with emails from Secretary Clinton in August 2014 – prior to requesting and receiving printed copies of her emails.

The review process described above confirmed Secretary Clinton's practice of emailing Department officials on their .gov address, with the vast majority of the printed copies of work-related emails Secretary Clinton provided to the Department simply duplicating what was already captured in the Department's record-keeping system in real time.

When the emails provided to the Department are made available, what is an example of what we will see?

You will see everything from the work of government, to emails with State and other Administration colleagues, to LinkedIn invites, to talk about the weather -- essentially what anyone would see in their own email account.

Did Secretary Clinton use this account to communicate with foreign officials?

During her time at State, she communicated with foreign officials in person, through correspondence, and by telephone. The review of all of her emails revealed only one email with a foreign (UK) official.

Do you think a third party should be allowed to review what was turned over to the Department, as well as the remainder that was not?

The Federal Records Act puts the obligation on the government official, not the agency or a third party, to determine what is and is not a federal record. The State Department Foreign Affairs Manual outlines guidance "designed to help employees determine which of their e-mail messages must be preserved as federal records and which may be deleted without further authorization because they are not Federal record materials." [5 FAM 443.1(c)].

Secretary Clinton responded to the Department's request by providing approximately 55,000 pages of her work-related emails. She has also taken the unprecedented step of asking that those emails be made public. In doing so, she has sought to support the Department's efforts, fulfill her responsibility of record-keeping and provide the chance for the public to assess the work she and officials at the Department did during her tenure.

After her work-related emails were identified and preserved, Secretary Clinton chose not to keep her private, personal emails that were not federal records. These were private, personal messages, including emails about her daughter's wedding plans, her mother's funeral services, and condolence notes, as well as emails on family vacations, yoga routines, and other items one would typically find in their own email account, such as offers from retailers, spam, etc.

Government officials are granted the privacy of their personal, non-work related emails, including personal emails on .gov accounts. Secretary Clinton exercised her privilege to ensure the continued privacy of her personal, non-work related emails.

Can't she release the emails she provided to the Department herself?

Because the printed copies of work-related emails she provided to the Department include federal records of the Department, the Department needs to review these emails before they can be made public. She wants them to be made available as soon as possible.

Was classified material sent or received by Secretary Clinton on this email address?

No. A separate, closed system was used by the Department for the sole purpose of handling classified communications which was designed to prevent such information from being transmitted anywhere other than within that system, including to outside email accounts.

How did Secretary Clinton receive and consume classified information?

The Secretary's office is located in a secure area. Classified information was viewed in hard copy by the Secretary while in the office. While on travel, the Department had rigorous protocols for her and traveling staff to receive and transmit information of all types.

Where was the server for her email located?

The server for her email was physically located on her property, which is protected by U.S. Secret Service.

What level of encryption was employed? Who was the service provider, etc?

The security and integrity of her family's electronic communications was taken seriously from the onset when it was first set up for President Clinton's team. While the curiosity in the specifics of this set up is understandable, given what people with ill-intentions can do with such information in this day and age, there are concerns about broadcasting specific technical details about past and current practices. However, suffice it to say, robust protections were put in place and additional upgrades and techniques employed over time as they became available, including consulting and employing third party experts.

Was the server ever hacked?

No, there is no evidence there was ever a breach.

Was there ever an unauthorized intrusion into her email or did anyone else have access to it?

No.

What was done after her email was exposed in February 2013 after the hacker known as "Guccifer" hacked Sid Blumenthal's account?

While this was not a breach of Secretary Clinton's account, because her email address was exposed, steps were taken at that time to ensure the security and integrity of her electronic communications.

Was the Department able to respond to requests related to FOIA or Congressional requests before they received printed copies of her work-related emails?

Yes. As the Select Committee has said, the Department provided the Committee with relevant emails it already had on the state.gov system before the Department requested any printed copies from former Secretaries, and four months before the Department received the printed copies.

For example, in the well-publicized hack of Sid Blumenthal's email account, a note he sent Secretary Clinton on September 12, 2012 was posted online. At first blush, one might not think this exchange would be captured on the state.gov system. But in fact, Secretary Clinton forwarded the email, that very same day, onto the state.gov system. And the email was produced by the Department to the Select Committee, and acknowledged by the Select Committee, in August 2014.

This example illustrates: 1) when an email from a non-".gov" sender had some connection to work or might add to the understanding of Department officials, it was Secretary Clinton's practice to forward it to officials at their "state.gov" address; and 2) the Department was able to search and produce Secretary Clinton's emails when needed long before, and unrelated to, receiving the printed copies as they were already captured on state.gov accounts.

When will the emails be released to the public?

Secretary Clinton has asked the Department to make her emails available as soon as possible. She is proud of the work that she and the public servants at the Department did during her four years as Secretary of State and is looking forward to people having the chance to see that for themselves.

APPENDIX B

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EDWARD BENNETT WILLIAMS (1920-1988)
PAUL R. CONNOLLY (1922-1978)

March 27, 2015

BY FIRST-CLASS SURFACE AND ELECTRONIC MAIL

The Honorable Trey Gowdy
United States House of Representatives
Select Committee on Benghazi
Washington, DC 20515

Dear Mr. Chairman:

This letter will respond to (1) the subpoena duces tecum issued by the Benghazi Select Committee to the Hon. Hillary R. Clinton and served by agreement on March 4, 2015; and (2) your March 19, 2015 letter requesting that former Secretary of State Clinton make her e-mail server available for third-party inspection and review.

Response to the Subpoena

As you know, the subpoena calls for the following documents, for the period January 1, 2011 through December 31, 2012, referring or relating to:

(a) Libya (including but not limited to Benghazi and Tripoli);

(b) weapons located or found in, imported or brought into, and/or exported or removed from Libya;

(c) the attacks on U.S. facilities in Benghazi, Libya on September 11, 2012 and September 12, 2012; or

(d) statements pertaining to the attacks on U.S. facilities in Benghazi, Libya on September 11, 2012 and September 12, 2012.

The subpoena requests production of any documents sent from or received by the e-mail addresses "hdr22@clintonemail.com" or "hrod17@clintonemail.com." As explained in my March 4, 2015 e-mail to your Staff Director and certain others, "hrod17@clintonemail.com" is not an address that existed during Secretary Clinton's

tenure as Secretary of State.[1] With respect to any e-mails from Secretary Clinton's "hdr22@clintonemail.com" account, I respond by stating that, for the reasons set forth below, the Department of State—which has already produced approximately 300 documents in response to an earlier request seeking documents on essentially the same subject matters—is uniquely positioned to make available any documents responsive to your requests.

On December 5, 2014, in response to an October 28, 2014 letter request from the Department of State for assistance in ensuring its records were as complete as possible, personal attorneys for Secretary Clinton delivered to the Honorable Patrick F. Kennedy, the Under Secretary of State for Management, all e-mails from the hdr22@clintonemail.com e-mail account that were related or potentially related to Secretary Clinton's work as Secretary of State. The Secretary's personal attorneys had reviewed every sent and received (whether as "to," "cc," or "bcc") e-mail from the hdr22@clintonemail.com account during her tenure as Secretary (62,320 e-mails in total) and identified all work-related and potentially work-related e-mails (30,490 e-mails, approximately 55,000 pages)—which were provided to the State Department on December 5, 2014. The Department of State is therefore in possession of all of Secretary Clinton's work-related e-mails from the hdr22@clintonemail.com account.

Secretary Clinton has asked for release of all of those e-mails to the public. While she is eager for the release to happen as soon as possible, the State Department needs to review the 30,490 e-mails prior to their release to determine whether any action is necessary to protect sensitive diplomatic efforts of the United States or the safety or privacy of any individuals identified in the e-mails. The State Department has that process underway.

Secretary Clinton is not in a position to produce any of those e-mails to the Committee in response to the subpoena without approval from the State Department, which could come only following a review process. On March 23, 2015, I received a letter from the Under Secretary of State for Management (attached hereto) confirming direction from the National Archives & Records Administration ("NARA") that while Secretary Clinton and her counsel are permitted to retain a copy of her work-related e-

[1] *See* e-mail from me to P. Kiko, S. Grooms, H. Sawyer, and D. Chipman (Mar. 4, 2015) ("I hope the following is helpful: Secretary Clinton used one email account when corresponding with anyone, from Department officials to friends to family. A month after she left the Department, Gawker published her email address and so she changed the address on her account. At the time the emails were provided to the Department last year this new address appeared on the copies as the 'sender,' and not the address she used as Secretary. This address on the account did not exist until March 2013, after her tenure as Secretary.").

mails, those e-mails should not be released to any third parties without authorization by the State Department. The letter further makes clear that any permission to release documents to third parties must be preceded by a review by the State Department for "privilege, privacy or other reasons." Thus, while Secretary Clinton has maintained and preserved copies of the e-mails provided to the State Department, she is not in a position to make any production that may be called for by the subpoena.

I should note that the subpoena overlaps in time frame and subject matter with a prior request you sent me. While the present subpoena includes two additional categories of documents that were not specified in the previous request—any and all documents related to "(c) the attacks on U.S. facilities in Benghazi, Libya on September 11, 2012 and September 12, 2012; or (d) statements pertaining to the attacks on U.S. facilities in Benghazi, Libya on September 11, 2012 and September 12, 2012"—those two categories appear to be encompassed by category (a) of the prior request, which broadly sought all documents "authored by, sent to, or received by" hdr22@clintonemail.com referring or relating to Libya generally, including Benghazi. Thus, I do not view the subpoena to be broader in subject matter or time frame than the December 2, 2014 letter request.

As you know, in my December 29, 2014 response letter, I referred that request to the State Department for production of any responsive e-mails from the set of 30,490 work-related and potentially work-related e-mails from the hdr22@clintonemail.com account that were provided to the State Department on December 5, 2014. On February 13, 2015, the State Department produced to the Committee approximately 300 e-mails (STATE-SCB0045000–STATE-SCB0045895) in response to the Committee's requests from their records, which include the set of the 30,490 hdr22@clintonemail.com e-mails that had been provided to the Department.

Finally, I observe that the subpoena calls for "any and all documents" during the requested time period related to the identified topics. In the event that we subsequently identify any other responsive documents, I will update this response promptly.

Response to Letter Request Regarding Server

In your March 19, 2015 letter, you requested that Secretary Clinton "make her server available to a neutral, detached and independent third-party for immediate inspection and review." March 19 Letter at 1. I respectfully note that the March 19 letter does not offer legal authority or precedent for this request and instead relies on the various "interests" claimed to be at stake.

Each of these interests purportedly relates to various rights of access to federal records. Those interests have already been addressed by the step of ensuring that the State Department's records are as complete as possible, through providing a copy of all of Secretary Clinton's work-related and potentially work-related e-mails—the majority of

which was contemporaneously captured on the state.gov system—to the State Department in December 2014. Thus, the State Department has all of Secretary Clinton's work-related and potentially work-related e-mails, regardless of whether they qualify as federal records.

The March 19 letter takes issue with Secretary Clinton's role, through her legal representatives, as the "sole arbiter of what she considers private" and what she considers work-related. *See* March 19 Letter at 3. That procedure, however,—whereby individual officials are responsible for separating what is work-related (and potentially a federal record) from what is personal—is the very procedure that NARA and individual agencies rely upon to meet their obligations under the Federal Records Act every day. Indeed, NARA's guidance and the State Department's policies make clear that the reliance on individual officials to make decisions as to what e-mails must be preserved as federal records is not an "arrangement" that is "unprecedented" or "unique," but instead the normal procedure carried out by tens of thousands of agency officials and employees in the ordinary course.

Specifically, the regulations implementing the Federal Records Act provide that "agencies must distinguish between records and nonrecord materials by applying the definition of records . . . to agency documentary materials in all formats and media." 36 C.F.R. § 1222.12(a) (2014). The regulations further recognize that determining which materials are "[a]ppropriate for preservation" as evidence of agency activities—and therefore within the definition of a federal record—is a matter entrusted to the "judgment of the agency," *id.* § 1222.10(b)(6) (2014). Both NARA guidance and State Department policies place the responsibility of exercising agency judgment to identify federal records on individual officials and employees. As NARA recently recognized with regard to the role of agency officials and employees in e-mail management, "[c]urrently, in many agencies, *employees manage their own email accounts and apply their own understanding of Federal records management*. This means that all employees are required to review each message, identify its value, and either delete it or move it to a recordkeeping system." NARA Bulletin 2014-06, ¶ 4 (Sept. 15, 2014) (emphasis added).

Like other agencies, the State Department places the obligation of determining what is and is not appropriate for preservation on individual officials and employees. The Foreign Affairs Manual, which sets forth the Department's policies with regard to e-mail management, provides that "[e]-mail message creators and recipients must decide whether a particular message is appropriate for preservation. In making these decisions, all personnel should exercise the same judgment they use when determining whether to retain and file paper records." *See* 5 FAM 443.2(b). The Manual supplies guidance, drawn from the language of the Federal Records Act, to assist individuals in their exercise of judgment. *See* 5 FAM 443.2(a). The Manual also notes "[t]he intention of this guidance is not to require the preservation of every E-mail message. Its purpose is to direct the preservation of those messages that contain information that is necessary to

ensure that departmental policies, programs, and activities are adequately documented." 5 FAM 443.2(b); *see also* 36 C.F.R. § 1222.16(b)(3) (2014) (stating that "[n]onrecord materials should be purged when no longer needed for reference. NARA's approval is not required to destroy such materials.").

Thus, by design, individual officials and employees indeed do serve as arbiters of what constitutes a federal record, and therefore as individual implementers of the Federal Records Act. The Committee implicitly recognized this fact when, in its December 2, 2014 letter request for documents related to Libya and weapons related to Libya, it asked Secretary Clinton to undertake a review of the hdr22@clintonemail.com account to determine whether any such documents existed on that account. The manner in which Secretary Clinton assisted the State Department in fulfilling its responsibilities under the Act here is consistent with the obligations of every federal employee.

The March 19 letter also expresses concern that Secretary Clinton's "arrangement apparently also allowed her to delete those emails she alone determined to be personal in nature." March 19 Letter at 3. This statement is at odds with your recognition of Secretary Clinton's personal privacy and that "the Committee has not sought, is not seeking, and will not seek to possess, review, inspect or retain any document or email that is purely personal in nature," as such materials are "none of the Committee's business, and would not assist the Committee in discharging its responsibilities." *Id.* at 5; *see also* letter from you to me (Dec. 2, 2014) at 1 ("To be clear, the Committee has no interest in any emails, documents or other tangible things not related to Benghazi."). It is also at odds with federal regulations implementing the Federal Records Act, which provide that "personal files"—defined as "documentary materials belonging to an individual that are not used to conduct agency business"—are "*excluded from the definition of Federal records and are not owned by the Government.*" 36 C.F.R. § 1220.18 (2014) (emphasis added).

Finally, the March 19 letter expresses concern that the review process for identifying potential federal records—a process that NARA and the State Department require to be undertaken by individual officials—was potentially inadequate. The only specific concerns cited are that search terms may have been relied upon as a proxy for a document-by-document review, or that the process would have excluded from the set produced to the State Department any hybrid e-mails that contained both work-related and personal materials. These concerns, however, are addressed by the fact that the Secretary's personal attorneys reviewed her email (search terms were employed as an aid to, not as a proxy for, that review), and that any work-related *and* potentially work-related (hybrid) e-mails were provided to the Department.

There is no basis to support the proposed third-party review of the server that hosted the hdr22@clintonemail.com account. During the fall of 2014, Secretary Clinton's legal representatives reviewed her hdr22@clintonemail.com account for the

time period from January 21, 2009 through February 1, 2013. After the review was completed to identify and provide to the Department of State all of the Secretary's work-related and potentially work-related emails, the Secretary chose not to keep her non-record personal e-mails and asked that her account (which was no longer in active use) be set to retain only the most recent 60 days of e-mail. To avoid prolonging a discussion that would be academic, I have confirmed with the Secretary's IT support that no e-mails from hdr22@clintonemail.com for the time period January 21, 2009 through February 1, 2013 reside on the server or on any back-up systems associated with the server. Thus, there are no hdr22@clintonemail.com e-mails from Secretary Clinton's tenure as Secretary of State on the server for any review, even if such review were appropriate or legally authorized.

As set forth above, all of Secretary Clinton's work-related and potentially work-related e-mails were provided to the State Department on December 5, 2014. Secretary Clinton has asked the Department to release these e-mails to the public as soon as possible. We understand that the State Department is working on completing procedures necessary for the release of those e-mails, and the Committee—and the public—will have access to them when that process is complete.

Sincerely,

David E. Kendall

cc: The Honorable Elijah Cummings
Dana K. Chipman, Esq.
Heather Sawyer, Esq.
The Honorable Patrick F. Kennedy

ATTACHMENT

UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON

MAR 23 2015

Dear Mr. Kendall,

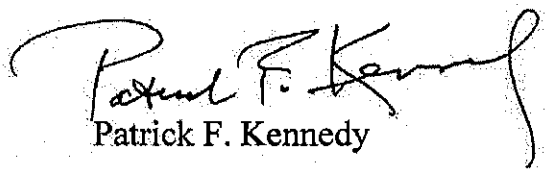
I am writing in reference to the approximately 55,000 pages of electronic mail that were identified as potential federal records and produced on behalf of former Secretary Clinton to the Department of State on December 5, 2014 in response to its request for assistance under the Federal Records Act.

We understand that Secretary Clinton would like to continue to retain copies of the documents to assist her in responding to congressional and related inquiries regarding the documents and her tenure as head of the Department. The Department has consulted with the National Archives and Records Administration (NARA) and believes that permitting Secretary Clinton continued access to the documents is in the public interest as it will help promote informed discussion. Accordingly, Secretary Clinton may retain copies of the documents provided that: access is limited to Secretary Clinton and those directly assisting her in responding to such inquiries; steps are taken to safeguard the documents against loss or unauthorized access; the documents are not released without written authorization by the Department; and there is agreement to return the documents to the Department upon request. Additionally, following NARA's counsel, we ask that, to the extent the documents are stored electronically, they continue to be preserved in their electronic format. In the event that State Department reviewers determine that any document or documents is/are classified, additional steps will be required to safeguard and protect the information. Please note that if Secretary Clinton wishes to release any document or portion thereof, the Department must approve such release and first review the document for information that may be protected from disclosure for privilege, privacy or other reasons.

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

I would appreciate it if the Secretary or her designee would confirm agreement to the conditions described above in writing as soon as possible.

Very truly yours,



Patrick F. Kennedy