# United States Senate

WASHINGTON, DC 20510

September 4, 2015

**VIA ELECTRONIC TRANSMISSION**

Mr. Bryan M. Pagliano
c/o Mark MacDougall, Esq.
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Dear Mr. Pagliano,

According to federal campaign finance records, you "[were] paid by Clinton's Senate leadership PAC through April of 2009," where you served as the campaign's IT director.[1] According to news reports, the following month, you began working for the State Department as an IT Specialist and continued to act as the lead specialist responsible for Secretary Clinton's private server in New York.[2] From 2010-2012, you were compensated at the GS-15 level by the Department.[3] You reportedly worked for the Department as an IT Specialist and were tasked with overseeing the maintenance and operability of Secretary Clinton's non-government server. Her use of that server substantially hindered the ability of State Department personnel to fully comply with Freedom of Information Act (FOIA) requests, which has generated substantial related litigation with FOIA requestors. In addition, according to the Inspector General for the Intelligence Community, Secretary Clinton's email records included "information classified up to 'TOP SECRET//SI//TK//NOFORN.'"[4]

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[1] Carol D. Leonnig, Rosalind S. Helderman, Tom Hamburger, "FBI looking into the security of Hillary Clinton's private email setup," The Washington Post (August 5, 2015). Accessible at http://www.washingtonpost.com/politics/fbi-looks-into-security-of-clintons-private-e-mail-setup/2015/08/04/2bdd85ec-3aae-11e5-8e98-115a3cf7d7ae_story.html.

[2] *Id.*

[3] FedsDataCenter. Bryan Pagliano Salary Search 2012; Bryan Pagliano Salary Search 2011. Bryan Pagliano Salary Search 2010. Accessible at http://www.fedsdatacenter.com/federal-pay-rates/index.php?n=pagliano&l=&a=&o=&y=2010.

[4] Memorandum for Sen. Richard Burr et al. from I. Charles McCullough, III, Update Classified Material on Personal Electronic Storage Devices (Aug 11, 2015), *available at http://www.grassley.senate.gov/sites/default/files/judiciary/upload/Classified%20docs%2C%2008-11 15%2C%20ICIG%20CN%20- %20Update%20on%20Classified%20Materials%20on%20Personal%20thumb%20drive.%20Clinton%20server.pdf.*

Accordingly, the Judiciary Committee, which has jurisdiction over FOIA, and the Homeland Security and Governmental Affairs Committee, which has jurisdiction over national security procedures and federal records, are investigating the circumstances surrounding the use of that non-government email server. It appears likely that you have unique information relevant to the Committees' inquiry.

On August 19, 2015, staff of the Homeland Security and Governmental Affairs Committee contacted you to inquire whether you would speak with the Committee. On your behalf, your attorney declined and subsequently indicated that you would avail yourself of constitutional protections.

On August 28, 2015, staff of the Judiciary Committee reached out to you in an attempt to schedule an interview to discuss those matters. On September 1, 2015, in response to a question about whether you were paid by any outside entity during your tenure at the State Department, your attorneys notified Judiciary Committee staff unequivocally that they will not be "answering questions or providing any information on [your] behalf." In addition, your attorneys stated that "[i]f any effort is made to compel our client's testimony, Mr. Pagliano will decline to answer such questions in reliance on his right under the 5th Amendment."

Your right under the Fifth Amendment to avoid being compelled to provide testimony that might be used to prosecute you is a fundamental individual right. The Committees will certainly respect and defer to any legitimate assertion of an individual's constitutional rights.

With that being said, the Committees also need the unique information you likely have in order to exercise their oversight functions under the Constitution, which are unrelated to any potential prosecution or criminal inquiry. Thus, the Committees have the authority to obtain an immunity order, to acquire the information they need, while also protecting your right against self-incrimination.[5]

On behalf of the Committees, we write to request that you make yourself available to provide information. Given the issues raised by your attorney and in order for the Committees to assess whether it would be appropriate for either Committee to consider obtaining an immunity order in these circumstances, we ask that your attorneys meet with the Committees' staff to explore how to obtain the unique information you possess while respecting your constitutional rights, such as the possibility of a proffer session so that we can better understand what your testimony would be without any waiver of your rights.

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[5] 18 U.S.C. §6005 Congressional proceedings; 18 U.S.C. § 6002. Immunity generally; 2 U.S.C. §288b(d) Immunity proceedings; 2 U.S.C. §288f Immunity proceedings.

Please respond no later than September 10, 2015. If you have questions, please have your attorney contact Josh Flynn-Brown of the Judiciary Committee staff at (202) 224-5225 or David Brewer of the Homeland Security and Governmental Affairs Committee staff at (202) 224-4751.

Sincerely,

Ron Johnson
Chairman
Committee on Homeland Security and Governmental Affairs

Charles E. Grassley
Chairman
Committee on the Judiciary

cc: The Honorable Thomas R. Carper
Ranking Member
Committee on Homeland Security and Governmental Affairs

The Honorable Patrick J. Leahy
Ranking Member
Committee on the Judiciary