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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

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August 24, 2015

VIA ELECTRONIC TRANSMISSION

The Honorable John F. Kerry
Secretary of State
Office of the Secretary
United States Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Secretary Kerry:

The Intelligence Community Inspector General (IC IG) and State Department Inspector General (State OIG) provided notifications to the Judiciary Committee with regard to Secretary Clinton's emails indicating that two emails out of 40 contained Top Secret/Sensitive Compartmented Information (TS/SCI). Importantly, the IC IG and State OIG made clear that these emails contained TS/SCI material when created. As you may know, Secretary Clinton sent her official government emails, including the TS/SCI material, to her private attorney, David Kendall, for purposes of storage and review.

Mr. Kendall has represented in a letter to the Senate Homeland Security and Governmental Affairs Committee that he and his associate, Ms. Katherine M. Turner, had access to the emails and currently hold Top Secret security clearances issued by the Department of State. Accordingly, neither Mr. Kendall nor Ms. Turner have a security clearance at a sufficient level to be a custodian of TS/SCI material. Thus, it appears Secretary Clinton sent TS/SCI material to unauthorized persons.

Moreover, in light of that particular classification, which generally requires advanced protocols such as a Sensitive Compartmented Information Facility (SCIF) and other similar arrangements to possess and view, it appears the FBI has also determined that Mr. Kendall and Ms. Turner's clearance was not sufficient to maintain custody of the emails. Consistent with that determination, the FBI is now in custody of not only the thumb drives previously in the possession of Mr. Kendall and Ms. Turner that allegedly contain all of Secretary Clinton's

emails, but also Secretary Clinton's personal server that was used to maintain the top secret emails outside of a government facility.¹

The recent letter from Mr. Kendall indicates that Secretary Clinton provided copies of her emails to him in December 2014. Further reporting indicates that government officials realized that the emails contained classified information in May 2015 yet the Department of State did not deliver a safe to store the thumb drives until July 2015.² Thus, since December 2014 it appears that in addition to not having an adequate security clearance, Mr. Kendall and Ms. Turner also did not have the appropriate tools in place to secure the thumb drives. Even with the safe, there are questions as to whether it was an adequate mechanism to secure TS/SCI material.³ Given the importance of securing and protecting classified information, especially TS/SCI material, it is imperative to confirm when, how, and why the Department issued the security clearances in connection with the representation of Secretary Clinton and what steps the Department has taken to secure the classified material contained within the emails.

The transmission of classified material to an individual unauthorized to possess it is a serious national security risk. Moreover, if a person unauthorized to maintain custody of classified materials does in fact maintain custody, it raises legitimate questions as to whether the information was properly secured from foreign governments and other entities. Many intelligence community personnel, uniformed personnel and the American people may be at risk when classified material is not properly secured. Accordingly, it is important that the Judiciary Committee receive clear and complete explanations from the Department regarding the events that have transpired.

Please answer the following questions:

1. What was the primary purpose for the Department of State granting Mr. Kendall and Ms. Turner a security clearance? What level were each of those clearances and when did the Department of State issue them? Please provide all records relating to the purpose and timing of the issuance of the clearances.
2. Did the Department of State initiate communication with Mr. Kendall and Ms. Turner indicating that they should apply for a security clearance? If so, on what date was that request made and why? In addition, which Department officials made the request? Please provide all records and communications related to the Department request.

¹ Josh Gerstein, "Clinton aides vow not to destroy emails," POLITICO (August 8, 2015). Accessible at

<http://www.politico.com/blogs/under-the-radar/2015/08/clinton-lawyer-details-server-surrender-as-aides-vow-212291.html>

² Greg Gordon, Marisa Taylor, Anita Kumar, "Classified data found on emails in May; Clinton camp slow to protect secrets," MCLATCHY DC (August 13, 2015). Accessible at <http://www.mcclatchydc.com/news/nation-world/national/article31057029.html>

³ 32 C.F.R. § 2001.43 (Storage of classified information).

3. If the Department of State did not initiate communications with Mr. Kendall and Ms. Turner for the purposes of acquiring a security clearance, when did Mr. Kendall and Ms. Turner initiate the process of acquiring a clearance from the Department?
4. Did either Mr. Kendall or Ms. Turner submit a completed Standard Form 86 (“Questionnaire for Nation Security Positions”) in order to obtain the security clearance used to justify custodianship of Secretary Clinton’s emails? If so, when did each submit the form? If not, please describe in detail the process by which Mr. Kendall and Ms. Turner acquired their respective clearances.
5. When were any background investigations of Mr. Kendall and Ms. Turner conducted that formed the basis of the Department’s issuance of the clearance? Did the background investigations include an interview by Department of State investigators? When were the results of any background investigations adjudicated for a final clearance eligibility determination?
6. If Mr. Kendall and Ms. Turner’s clearances were issued without new background investigations, were the clearances issued based on prior background investigations? If so, on what dates were those prior investigations, what was the purpose of those clearances, and what agency was the holder of the clearance?
7. Mr. Kendall reportedly held a clearance in connection with his representation of General Petraeus. When was that clearance terminated?
8. On what date did Secretary Clinton transfer the emails to Mr. Kendall? On what date did she transfer them to Ms. Turner?
9. On what date did the Department of State install the safe at Williams & Connolly? Was the safe suitable to store TS/SCI material? Please detail all federal agencies involved in the placement of the safe within Williams & Connolly.
10. Does Secretary Clinton currently hold a clearance? What are the effective dates of any current or previously held clearances since becoming Secretary of State?
11. Do Mr. Kendall and Ms. Turner currently hold a clearance in connection with their representation of Secretary Clinton? What are the effective dates of any current or previously held clearances in connection with representing Secretary Clinton?
12. Since the IC IG made a referral to the FBI pursuant to 50 U.S.C. §3381, has Secretary Clinton’s security clearance been suspended pending the outcome of the inquiry?

13. Since the IC IG made a referral to the FBI pursuant to 50 U.S.C. §3381, has Mr. Kendall's, Ms. Turner's, or anyone else's State Department-issued security clearance been suspended pending the outcome of the inquiry?

Please number your responses according to their corresponding questions. Thank you in advance for your cooperation with this request. Please respond no later than September 4, 2015. If you have questions, please contact Josh Flynn-Brown of my Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary