

Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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September 20, 2016

The Honorable James B. Comey
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, D.C. 20535

Dear Director Comey,

The House Committee on Science, Space, and Technology is examining former Secretary of State Hillary Clinton's use of a private email account and server during her time at the State Department. On September 9, 2016, the Committee sent a letter to Attorney General Lynch, courtesy copying your office, requesting documents and information related to the security of former Secretary Clinton's private server.¹ The Science Committee, in cooperation with the Senate Homeland Security and Government Affairs Committee (HSGAC), has been seeking documents related to the security of former Secretary Clinton's server since July 12, 2016.²

Despite multiple telephone conversations with your staff, your office has failed to produce any documents pursuant to the September 9, 2016, request.³ As I stated in a recent hearing before the Oversight and Government Reform Committee, the Science Committee is uniquely positioned to evaluate the "way in which Executive Branch departments and agencies and private entities can improve their cybersecurity."⁴ Under House Rule X, the Science Committee is charged with legislative and authorizing jurisdiction over the National Institutes of Standards and Technology (NIST), which is responsible for updating and promulgating the Framework for Improving Critical Infrastructure Cybersecurity as well as other requirements of

¹ Letter from Hon. Lamar Smith, Chairman, U.S. House Comm. on Science, Space, & Technology and Hon. Ron Johnson, Chairman, U.S. Senate Homeland Security & Governmental Affairs Comm. to Hon. Loretta Lynch, Attorney General, U.S. Department of Justice (Sept. 9, 2016) (courtesy copy was provided via email to FBI Director Comey's staff).

² Letter from Hon. Lamar Smith, Chairman, U.S. House Comm. on Science, Space, & Technology and Hon. Ron Johnson, Chairman, U.S. Senate Homeland Security & Governmental Affairs Comm. to officials at Platte River Networks, SECNAP Network Security Corp., & Datto, Inc. (July 12, 2016).

³ H. Committee on Science, Space, & Technology staff telephone calls with FBI Congressional Affairs staff on Sept. 13, 16, & 19, 2016.

⁴ Statement of Hon. Lamar Smith, Chairman, U.S. House Comm. on Science, Space, & Technology during the U.S. House Comm. on Oversight & Gov't Reform Committee Hearing: *Examining Preservation of State Department Records*, Sept. 13, 2016 (remarks as prepared for delivery).

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the Federal Information Security Modernization Act of 2014, commonly referred to as FISMA. The Committee is concerned that former Secretary Clinton's unusual server and network arrangement calls for amendments to FISMA. In fact, the Committee is considering an update to FISMA – the Cybersecurity Responsibility and Accountability Act of 2016 – this week during a markup scheduled for September 21, 2016. Depending upon the findings of the current investigation related to former Secretary Clinton's server and network additional legislation may be necessary.

While the Committee appreciates your staff keeping us up to date on the FBI's public release of documents, the Committee must object to the current approach of requiring Congress to wait for such releases. This is a clear dilution of congressional oversight authority – authority based in the Constitution and repeatedly affirmed by the U.S. Supreme Court.⁵ The Committee continues to have questions about the structure and security of the email system used by former Secretary Clinton and whether she and her staff employed cybersecurity standards comparable to those required of the federal government by FISMA.

Please provide the documents responsive to the enclosed subpoena by September 26, 2016. If you have questions regarding compliance with the subpoena, do not hesitate to contact Ashley Callen or Drew Colliatie of the Committee staff, 202-225-6371. Thank you for your attention to this important matter.

Sincerely,



Lamar Smith
Chairman
Committee on Science, Space, and Technology

cc: The Honorable Eddie Bernice Johnson
Ranking Minority Member
Committee on Science, Space, and Technology

Enclosure

⁵ See generally *McGrain v. Daugherty*, 273 U.S. 135 (1927); *Eastland v. U.S. Servicemen's Fund*, 421 U.S. 491 (1975); *Watkins v. United States*, 354 U.S. 178, (1957).