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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

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December 11, 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:

Since we last spoke on November 20, 2015 regarding my holds on three Department nominees, my staff has met with yours on several occasions, including yesterday. In addition, our respective staff have spoken on the phone dozens of times and exchanged many emails. I appreciate the recent increase in cooperation and focus on the Committee's requests.

To date, out of a prioritized list of 22 requests pulled from letters to the Department, the Committee has received seven fully complete responses, including three witness interviews, and nine partially complete responses. Assuming the Committee receives the additional items promised by your staff in yesterday's meeting, I intend to take action to recognize this progress before Senators leave town for the holiday break.

Unfortunately, the Committee is not yet in possession of any documents related to its highest priority request. As you know, former State Department information technology specialist Bryan Pagliano has asserted his Fifth Amendment right against self-incrimination rather than answer questions from the Committee. Mr. Pagliano was reportedly paid by former Secretary Clinton for his work on her non-government server while a State Department employee, though he apparently did not declare any such income on his financial disclosure forms after entering the Department.

Given that the Committee is unable to obtain his testimony at this time, I am seeking copies of his official State Department emails relevant to the Committee's inquiry before proceeding to consider whether it might be appropriate to grant him immunity and compel his testimony. Accordingly, as has been explained to the Department, this is the highest priority among the Committee's requests.

However, the Department has informed the Committee that it is unable to locate any copy or backup of the ".pst file" containing Mr. Pagliano's official State Department emails. As I mentioned to FBI Director Comey during Wednesday's FBI Oversight hearing, the Department also informed the Committee that the government computer system Mr. Pagliano is believed to have used is now in the possession of the FBI. As a result, the Department is searching for, and has located a limited number of emails in the files of other State Department employees who communicated with Mr. Pagliano.

Accordingly, the Committee's request for Mr. Pagliano's emails will not be considered fulfilled until the Department (1) provides a full and detailed written explanation of why it failed to maintain an archive, copy, or backup of Mr. Pagliano's email file, (2) provides a Department expert witness familiar with the facts and circumstances of the failure to retain Mr. Pagliano's emails for an interview with Committee staff, and (3) completes its search of other employee's files for emails with Mr. Pagliano and produces to the Committee all responsive records, along with a description of the efforts undertaken in the search.

If you have any questions, please contact Josh Flynn-Brown of my Committee staff at (202) 224-5225. Thank you for your cooperation in this important matter.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary