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United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

October 18, 2016

VIA ELECTRONIC TRANSMISSION

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

Dear Secretary Kerry:

On July 19, 2016, I wrote to you requesting emails between or among Under Secretary for Management, Patrick Kennedy, and a number of Hillary Clinton associates and attorneys, as well as other State Department employees. My request was made on the basis of my ongoing investigation into Secretary Clinton's non-government server and personal email arrangement and its impact on Freedom of Information Act and Federal Records Act compliance. As I explained in the July letter, it has become clear that Mr. Kennedy played an integral role in the attempt to ensure that Secretary Clinton, and her subordinates, properly turned over all official emails to the State Department. In addition, Mr. Kennedy played a central role in informing Secretary Clinton's attorney, David Kendall, of the classified nature of her emails.

The recent FBI production of Clinton investigation interview summaries shed additional light on Mr. Kennedy's role in classifying Secretary Clinton's work-related emails. The interview summaries show that he was involved in communications relating to a "quid pro quo" between FBI employees which entailed downgrading a classified email in exchange for the State Department placing more FBI agents in Iraq. Further, Mr. Kennedy made repeated, yet unsuccessful, attempts to pressure FBI personnel to downgrade the email. And finally, Mr. Kennedy wanted the email in question to be subject to Freedom of Information Act (FOIA) exemption (b)(9) which would "allow him to archive the document in the basement of the [Department of State] never to be seen again." The State Department has denied any "quid pro quo" took place. However, one FBI employee stated in an FBI interview that he "believes State has an agenda which involves minimizing the classified nature of the CLINTON emails in order to protect STATE interests and those of CLINTON." I have attached the letter I sent the FBI for additional context.

Due to Mr. Kennedy's involvement in the alleged "quid pro quo," this letter serves as notice of an expanded email request from the original July 2016 letter. Accordingly, in addition to my requests in that letter, please provide the following:

1. All emails between or among Patrick Kennedy and FBI employees referring or relating to changing the classification of emails acquired during the course of the Clinton investigation.
2. All emails sent or received by Patrick Kennedy referring or relating to the potential State Department approval of locating additional FBI personnel overseas.
3. Please provide a copy of the email at issue in the conversations between Patrick Kennedy and FBI officials.

Please answer the questions according to their corresponding questions. I anticipate that your written reply and most of the responsive documents will be unclassified. Please send all unclassified material directly to the Committee. In keeping with the requirements of Executive Order 13526, if any of the responsive documents do contain classified information, please segregate all unclassified material within the classified documents, provide all unclassified information directly to the Committee, and provide a classified addendum to the Office of Senate Security. Although the Committee complies with all laws and regulations governing the handling of classified information, it is not bound, absent its prior agreement, by any handling restrictions or instructions on unclassified information unilaterally asserted by the Executive Branch.

Thank you in advance for your cooperation with this request. Please respond no later than November 2, 2016. If you have questions, contact Josh Flynn-Brown of my Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

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WASHINGTON, DC 20510-6275

October 18, 2016

VIA ELECTRONIC TRANSMISSION

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

Dear Director Comey,

On Monday, the FBI publicly released additional interview summaries from the Clinton investigation that show Under Secretary for Management, Patrick Kennedy contacted FBI employees to request that a classified email be downgraded to unclassified. Mr. Kennedy further noted that he wanted the email classified under Freedom of Information Act (FOIA) exemption (b)(9) which would “allow him to archive the document in the basement of the [Department of State] never to be seen again.”

According to the interview summaries, in response to Mr. Kennedy’s request to change the classification, an FBI official in the International Operations Division “told KENNEDY he would look into the e-mail matter if KENNEDY would provide authority concerning the FBI’s request to increase its personnel in Iraq.” After that exchange, that FBI employee apparently contacted another FBI employee located in the Records Management Division and allegedly “pressured him to change the classified email to unclassified.” The employee from the Records Management Division also said:

[redacted] indicated that he had been contacted by PATRICK KENNEDY, Undersecretary of State, who had asked his assistance in altering the email’s classification in exchange for a “quid pro quo.” [redacted] advised, in exchange for marking the email unclassified, STATE would reciprocate by allowing the FBI to place more Agents in countries where they are presently forbidden.

The interview summaries also show that after a follow up meeting between State, CIA, DIA, and other government agencies, Mr. Kennedy apparently met with the Records Management FBI employee again and asked whether the FBI could “see their way to marking the email unclassified?” The interview summary notes that Kennedy continued for approximately 15 minutes debating whether the email was classified all in an attempt to influence the FBI to downgrade the email. The FBI employee refused to give way, and Mr. Kennedy was referred to Michael Steinbach, the Assistant Director of the Counterterrorism Division. Mr. Kennedy proceeded to call Mr. Steinbach to again pressure the FBI to change the classification to unclassified, to no avail.

The facts presented by the interview summaries are troubling. The FBI has issued a press release, defending the actions of its employees, and noting that the request to change the classification was separate and distinct from the request to place more agents in Iraq and therefore there was no quid pro quo. However, the FBI was concerned enough about the fact pattern that it referred the matter “to the appropriate individuals for review.”¹ Thus, in light of that referral and given the dissonance between the FBI’s public statement and the interview summaries, further clarification is needed. Accordingly, please provide the following:

1. All emails between or among FBI employees and Patrick Kennedy referring or relating to changing the classification of emails acquired during the course of the Clinton investigation.
2. All emails between or among FBI employees and Patrick Kennedy referring or relating to the potential State Department approval of locating additional FBI personnel overseas.
3. According to the FBI’s press release, “[t]he classification of the email was not changed, and it remains classified today. Although there was never a quid pro quo, these allegations were nonetheless referred to the appropriate individuals for review.”²
 - a. To whom were the allegations referred?
 - b. Was an independent investigation conducted? If so, please provide a copy of the final report of that investigation. If not, why not?
4. Please provide a copy of the email at issue in the conversations between Patrick Kennedy and FBI officials.

¹ Catherine Herridge, “Quid pro quo: FBI files show top State official tried to ‘influence’ bureau on Clinton emails,” FoxNews (October 17, 2016).

² *Id.*

Please answer the questions according to their corresponding questions. I anticipate that your written reply and most of the responsive documents will be unclassified. Please send all unclassified material directly to the Committee. In keeping with the requirements of Executive Order 13526, if any of the responsive documents do contain classified information, please segregate all unclassified material within the classified documents, provide all unclassified information directly to the Committee, and provide a classified addendum to the Office of Senate Security. Although the Committee complies with all laws and regulations governing the handling of classified information, it is not bound, absent its prior agreement, by any handling restrictions or instructions on unclassified information unilaterally asserted by the Executive Branch.

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