

Did the State Department Help Hillary Clinton Avoid an FOIA Request?

In December of 2012, the conservative government watchdog Citizens for Responsibility and Ethics in Washington made a Freedom of Information Act demand to know how many email accounts then-Secretary of State Hillary Clinton was using.

Five months later, CREW was informed by State Department officials that “no records responsive to your request were located.” But what happened during those five months are now the latest controversy surrounding former Secretary of State Hillary Clinton’s use of a private non-secure email server during her tenure.

Wednesday, Judicial Watch released 10 pages of new email correspondence related to that FOIA demand and communications that occurred between the State Department’s spokesman and Clinton’s chief of staff, Cheryl Mills. Judicial Watch obtained the emails earlier this year under court order as part of its own FOIA lawsuit filed against the State Department.

One email—time stamped at 4:11 p.m. on Dec. 11, 2012—is particularly troubling:

From: Johnson, Brock A

Sent: Tuesday, December 11 2012 05:39 PM

To: Mills, Cheryl D

Subject: FW: Significant FOIA Report

FYI on the attached FOIA request from:

Anne Weismann of Citizens for Responsibility and Ethics in Washington (CREW) requesting "records sufficient to show the number of email accounts of or associated with Secretary Hillary Rodham Clinton, and the extent to which those email accounts are identifiable as those of or associated with Secretary Clinton."

Mills acknowledged receipt of the email and thanked Johnson. The State Department Office of Inspector General's report in January of this year details what happened next:

At the time the request was received, dozens of senior officials throughout the Department, including members of Secretary Clinton's immediate staff, exchanged emails with the Secretary using the personal accounts she used to conduct official business. OIG found evidence that the Secretary's then-Chief of Staff was informed of the request at the time it was received and subsequently tasked staff to follow up. However, OIG found no evidence to indicate that any of these senior officials reviewed the search results or approved the response to CREW. OIG also found no evidence that the S/ES [Office of Secretary and Executive Secretariat], L [Office of the Legal Adviser], and IPS staff involved in responding to requests for information, searching for records, or drafting the response had knowledge of the Secretary's email usage. Furthermore, it does not appear that S/ES searched any email records, even though the request clearly encompassed emails ...

On August 11, 2014, the Department produced to the House Select Committee on Benghazi documents related to the 2012 attack on U.S. facilities in Benghazi. The production included a number of emails revealing that Secretary Clinton used a personal email account to conduct official business. OIG discovered four instances, between July and September 2014, in which staff from L, A, or the Bureau of Legislative Affairs reviewed the CREW request and the Department's May 2013 response, but the Department did not amend its

response. L and A [Bureau of Administration] staff also told OIG that the Department does not customarily revise responses to closed FOIA requests. Nevertheless, during the course of this review, Department staff advised OIG of their belief that the Department's response to CREW was incorrect and that it should have been revised to include the former Secretary's personal email account used to conduct official government business.

Judicial Watch says its own deposition of Mills in a separate FOIA lawsuit, when put into the context of the new revelations, indicates Clinton's former Chief of Staff—and perhaps others within the State Department—were hiding the secretary's private email from public scrutiny. Lawyers for the organization specifically asked Mills about the CREW FOIA request:

Q Okay. Do you recall a FOIA request that came in from CREW that's discussed in this document [a letter from Sen. Charles Grassley (R-IA) inquiring about the handling of the CREW FOIA request]?

A I don't recall the specific FOIA request in terms of what was in the request. But I've obviously seen references to this in the media since then.

Q Do you recall a FOIA request that came in relating to — when you were at the State Department, of course, relating to the e-mail accounts used by Secretary Clinton and records that would provide for what the e-mail address was?

A I don't have a specific recollection of it. But I certainly have read in the media exactly what is in here. And so while it doesn't necessarily refresh my recollection, I do know that this — obviously this matter took place.

Q Okay. Do you recall or did Brock Johnson bring this

FOIA request to your attention?

A I don't have a specific memory of that.

Q Did you ever – or did you speak with Heather Samuelson [State Department and Clinton attorney who handled Clinton emails] regarding the CREW request?

A I don't have a memory of that.

"This is evidence that Cheryl Mills covered up Hillary Clinton's email system," Judicial Watch President Tom Fitton said. "She was aware of the FOIA request about Clinton's email accounts and allowed a response to go out that was a plain lie. And you can bet if Cheryl Mills knew about this inquiry, then Hillary Clinton did, too.

"This is all the more reason for Mrs. Clinton to finally testify under oath about the key details of her email practices."

In a separate FOIA lawsuit, Judicial Watch has requested permission to depose Clinton, as well as other key members of her staff who have not yet been questioned about her private email server. Those include Director of the Office of Correspondence and Records of the Executive Secretariat Clarence Finney and Director of Information Resource Management of the Executive Secretariat John Bentel.