

Hillary Clinton Wasn't the Only Cabinet Member Using Private Email

Judicial Watch President Tom Fitton announced Monday his government watchdog organization was tracking two potential scandals involving current and past Obama Administration officials.

In the first, Fitton said Judicial Watch has discovered a new controversy involving the use of private email by a Cabinet member directly involved in national security. Homeland Security Secretary Jeh Johnson and several of his key deputies have been using private, web-based email for some time.

Fitton wrote:

Many officials in the Obama administration, and not just Hillary Clinton, improperly used personal email accounts to conduct official business. And we are concerned that they will destroy these emails when they leave office this month.

For that reason, we asked a federal court to preserve the personal email accounts of Department of Homeland Security Secretary Jeh Johnson and other top officials. Judge Randolph D. Moss held a court hearing this week.

We had filed a Freedom of Information Act (FOIA) lawsuit seeking agency records in the personal email accounts used by Secretary Johnson, Deputy Secretary Alejandro Mayorkas, Chief of Staff Christian Marrone and General Counsel Stevan Bunnell to conduct official government business (Judicial Watch v U.S. Department of Homeland Security (No. 1:16-cv-00967)).

The lawsuit has already uncovered documents showing that

Johnson and other top DHS officials were exempted from a strict ban placed on web-based personal email accounts despite heightened security concerns.

Judicial Watch sought a preservation order for any government-related emails prior to the Christmas holiday. In that motion, the organization's lawyers argued that while Homeland Security officials have said they asked Johnson and his deputies to preserve their emails, there is no evidence that was actually done, or that there will be any compliance with the request.

Fitton shared a piece of the transcript from that hearing:

THE COURT: But you say to me there's no reason to doubt that the agency will pursue the records and that they'll be returned, but it's been six months. Is there any evidence that anything has been done to retrieve those documents or records?

DHS ATTORNEY: I think that the six months though, your Honor, refers to the time in a FOIA request which is independent of any obligations under the Federal Records Act. And I don't think we would be in this position with respect to the FOIA case had a valid request been filed or submitted.

THE COURT: But put that aside for a second. I mean, the government has been on notice at least since May, though, that there's reason to believe that there are emails that are residing on individuals' private servers that are government records, right?

DHS ATTORNEY: Your Honor, the first thing I would point out—and I think it's important because we're going back and forth between FOIA and the Federal Records Act, is we don't have reason to believe—or let me be clear, we don't know that there are federal records that are in the personal email accounts.

THE COURT: So has anyone checked to see if there are? Has anyone asked a question, anything to try and figure that out?

DHS ATTORNEY: I can't represent one way or the other to that, your Honor.

Although Judicial Watch didn't get the preservation order they requested, the judge in the case did order DHS attorneys to provide information that could lead to an order prior to Jan. 20—the last day of the Obama administration. They are required, before Jan. 12, to provide the preservation requests sent for the court to review in private, as well as public statements indicating how each of the officials intends to respond to those requests.

Additionally, Fitton said Judicial Watch is requesting the California Legislature Joint Rules Committee provide access to its records regarding the state's employment of former U.S. Attorney General Eric Holder. The records request includes:

- All contracts between the California Legislature and former U.S. Attorney General Eric Holder or the Covington & Burling law firm.
- All communications between the California Legislature and former U. S. Attorney General Eric Holder or the Covington & Burling law firm about the Legislature's retention of Holder and/or the Covington & Burling law firm.

Last week, California legislative leaders announced that they have hired Holder to assist them in anticipated federal challenges to several state policies such as climate change and immigration. In a statement, Kevin de Leon, California Senate President Pro Tempore said:

"With the upcoming change in administrations, we expect that there will be extraordinary challenges for California in the uncertain times ahead."

The state's attorney general's office already has a budget of \$190 million.

Holder was the first attorney general to be held in contempt of Congress on both civil and criminal grounds. The contempt charge came in connection with Holder's refusal to turn over documents on Operation Fast and Furious, the Obama administration's gun-walking scandal.

Here are other scandals attacked to Holder's tenure as attorney general that Judicial Watch is still investigating:

- Under Holder, the Justice Department dismissed its voting rights case against the New Black Panther Party. The Justice Department originally filed its lawsuit against the New Black Panther Party following an incident that took place outside of a Philadelphia polling station on Nov. 4, 2008. According to multiple witnesses, members of the New Black Panthers blocked access to polling stations, harassed voters and hurled racial epithets. A video of the incident, showing a member of the New Black Panther Party brandishing a police-style baton weapon, was widely distributed on the internet.
- In 2013, the Justice Department was caught spying on *The Associated Press* by collecting months' worth of phone records of reporters and editors. Fox News' James Rosen was among those targeted by Holder's Justice Department.

"Judicial Watch's records request is designed to expose how California state legislators are wasting tax dollars to take care of another corrupt politician—Eric Holder—under the guise of resisting the rule of law on immigration and other matters," Fitton said. "His record at the Clinton and Obama Justice Departments demonstrates a willingness to bend the law in order to protect his political patrons." {eo}