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Basis for the Indictment and Criminal Conviction of Hillary Rodham Clinton for Crimes Against the United States

(reformatted: June 19, 2018)

Background:

With the release of “tens of thousands” (FBI source, unconfirmed) of newly discovered emails that were found on four different devices in connection with a criminal investigation of Huma Abedin’s estranged husband, Anthony Weiner, on Friday, October 28, 2016, FBI Director James Comey communicated written notice to members of Congress that he has reopened the criminal investigation into Hillary Clinton’s use of private nonsecure email servers and devices to conduct official business of the United States.

At least one of the four relevant devices discovered belonged to Clinton’s closest associate, Huma Abedin, and one device belonged to Anthony Weiner (ownership and nature of the other two devices was not revealed).

Given the timing of Comey’s action a mere 11 days before election day, it is clear that the materials discovered are very likely to contain new and very strong evidence likely to prove sufficient to warrant an indictment of Hillary Clinton and a number of her associates for violations of federal laws including those governing espionage and the legal requirements for due diligence with the protection of national security and classified information.

Where criminal intent is required, proof of criminal intent is established by:

- (1) Making false exculpatory statements
- or (2) Destroying evidence

Such actions clearly indicate knowledge of criminal activity and an attempt to conceal such activity.

Several of the more severe violations of Federal Law cited below require neither intent nor knowledge of criminal activity by those committing the crime. Nevertheless, there is a compelling preponderance of evidence that demonstrates proof of criminal intent by both Hillary Clinton and her associates.

Throughout her tenure as Secretary of State Clinton conducted official government business on nonsecure private email servers and devices which included the transmission and receipt of highly sensitive classified material.

When confronted with questions about her use of such devices, Clinton repeatedly denied she had ever used such devices for official government business and, in particular, she claimed no documents marked classified had been sent or received from her personal email devices.

When pressed about classified documents being sent and received on her nonsecure private email devices, Clinton responded by lying, dissembling, or both. On several occasions when Clinton claimed she had neither sent nor received documents marked classified she was not denying the documents were not classified, just that they were not marked classified, hoping the distinction would be lost on her supporters. If senders remove classified markings prior to illegally making electronic copies and sending the material by nonsecure email, the documents are still classified.

Clinton’s original security briefing and annual follow-up briefings informed her that she was responsible for recognizing classified material whether or not it was marked or officially categorized as such after its

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creation. Indeed, as Secretary of State, Clinton would be expected to create material that would subsequently be classified by the Department of State. This responsibility of her position removes any legitimacy to Clinton's suggestion of innocence because documents she received electronically may have lacked proper classification markings.

As a matter of public record, in an email exchange between Clinton and her subordinate, Jacob J. Sullivan on Friday, June 17, 2011, involving difficulty Sullivan was having using a secure fax machine to send a sensitive document to Clinton, she instructed Sullivan to "... turn into nonpaper w no identifying heading and send nonsecure." Clinton's instruction to Sullivan to create an electronic copy ("nonpaper") and send it by email ("send nonsecure") is a clear violation of federal law even though in this instance Sullivan was able to securely transmit the document legally without violating the law as Clinton had advised.

It should be noted that President Barack Obama also lied to the American people when he was asked about Clinton's private email servers, claiming he found out about them from news reports. As revealed in materials released by WikiLeaks, Obama knew about Clinton's use of private email servers for her public business because on several occasions he had used her "clintonmail.com" private nonsecure email address rather than her "state.gov" email address. Obama's withholding knowledge and evidence of a federal crime (and committing a crime by engaging in use of the illegal servers by sending email to them) is also punishable as a felony. Presidents are not exempt.

Clinton's contradictory statements and lies about her private nonsecure servers:

March 10, 2015: "The laws and regulations in effect when I was Secretary of State allowed me to use my email for work, that is undisputed." [Note: State Department policy and federal FOIA procedures as well as national security law prohibit the use of private email servers and devices for conducting official government business, particularly when messages contain classified materials.]

August 26, 2015: "It clearly wasn't the best choice, um, and I take responsibility for that decision."

March 10, 2015: "I thought it would be easier to carry just one device for my work and for my personal emails instead of two."

February 24, 2015: Question: [Do you use an] iPhone or Android? Hillary Clinton: "Ha, ha, ha, ha, ha, ha, ha. iPhone. Okay, in full disclosure, and a Blackberry. I have, ah, ah, ah, you know, a an iPad, a mini iPad, an iPhone and a Blackberry."

March 10, 2015: "I believe I have met all of my responsibilities and the server, um, will remain, ah, private."

August 18, 2015; "In order to be as cooperative as possible, we have turned over the server. They can do whatever they want to the server."

July 15, 2015: "I am confident that I never sent nor received any information that was classified at the time it was sent and received."

August 5, 2016: "So that leaves the 100 out of 30,000 emails that Director Comey testified, ah, contained classified information."

July 15, 2015: "I did not receive anything that was marked as classified."

August 5, 2016: "Director Comey said that only three out of 30,000 had anything resembling classified markers."

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August 18, 2015: Question from Ed Henry, broadcast journalist for FOX News: “You were the official in charge, did you wipe the server?” Hillary Clinton: “What, like with a cloth or something? Well, no. We turned over everything that was work-related, every single thing.”

Many of Hillary Clinton’s statements were subsequently exposed as lies during FBI Director James Comey’s July 5th public address revealing information obtained by the FBI in their criminal investigation of Clinton’s use of private nonsecure email devices.

July 5, 2016: FBI Director James Comey’s statement:

“From the group of 30,000 emails returned [by Hillary Clinton] to the State Department in 2014, 110 emails in 52 email chains have been determined by the owning agency to contain classified information at the time they were sent or received. Eight of those chains contained information that was Top Secret at the time they were sent. Thirty-six of those chains contained Secret information at the time, and eight contained Confidential information at the time. That’s [Confidential] the lowest level of classification.”

“Although we did not find clear evidence that Secretary Clinton or her colleagues intended to violate laws governing the handling of classified information, there is evidence that they were extremely careless in their handling of very sensitive highly classified information.”

Note that these two statements from Directory Comey contain an abundance of sufficient cause for the Department of Justice to indict and prosecute Hillary Clinton for crimes against the national security of the United States. That Clinton was given special preference and let off without so much as a slap on the wrist is reprehensible and will forever stain the FBI’s reputation as an impartial investigative body.

July 7, 2016: Exchange between Rep. Trey Gowdy and FBI Director James Comey:

Rep. Gowdy: “Secretary Clinton said there was nothing marked classified on her emails either sent or received. Was that true?”

Dir. Comey: “That’s not true. There were a small number of portion markings on, I think, three of the documents.”

Rep. Gowdy: “Secretary Clinton said I did not email any classified material to anyone on my email, there is no classified material. Was that true?”

Dir. Comey: “There was classified material emailed.”

Rep. Gowdy: “Secretary Clinton said she used just one device. Was that true?”

Dir. Comey: “She used multiple devices during the four years of her term as Secretary of State.

Rep. Gowdy: “Secretary Clinton said all work-related emails were returned to the State Department. Was that true?”

Dir. Comey: “No. We found work-related emails, thousands, that were not returned.”

Rep. Gowdy: “Secretary Clinton said her lawyers read every one of the emails and were overly inclusive [with what was returned to the State Department]. Did her lawyers read the email content individually?”

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Dir. Comey: "No."

This exchange demonstrated conclusively that Clinton had, on several occasions, made false exculpatory statements in an attempt to avoid prosecution.

Further evidence of Hillary Clinton's corruption:

Three weeks after the congressional committee investigating Benghazi subpoenaed all Clinton's records (including email) relating to the terrorist attack on the US consular compound in Benghazi, Libya, Clinton had email records on her devices destroyed using BleachBit.

Former Federal Attorney Rudy Giuliani has identified Federal laws violated by Hillary Clinton for which he is convinced she should be prosecuted and, if found guilty, disqualified from serving in any Federal office.

There is incontrovertible evidence that by her actions, Hillary Clinton demonstrated criminal intent as required by the courts. Her many false statements over a period of years and her destruction of evidence pertaining to both material under Congressional subpoena and the FBI's investigation of her criminal actions (violation of policy, procedures, regulations and/or federal laws relating to use of nonsecure private email servers to conduct official government business) provides clear evidence of Clinton's criminal intent.

Records not destroyed that the FBI had recovered as of early July included more than 100 incidents of Clinton's nonsecure private email devices exposing classified information to foreign intelligence-gathering operations.

These violations ran concurrently with the illegal use of her office of Secretary of State to sell her discretionary exemptions from federal law to foreign entities in exchange for large contributions of cash to the Clinton Foundation (which evidence reveals a "pay to play" criminal enterprise designed to personally enrich the Clintons).

The criminal codes cited below were violated as a consequence of Clinton's use of nonsecure private email servers and devices and her ensuing attempt to cover her tracks by destroying evidence and offering incentives (to the FBI from the State Department) to have certain classified documents declassified.

Criminal violations:

1. Pertaining to Hillary Clinton's use of personal email servers & devices and the ensuing cover-up (12 criminal codes violated):

<u>18 US Code § 201</u>	Bribery
<u>18 US Code § 371</u>	Conspiracy to commit offense
<u>18 US Code § 793</u>	Gathering, transmitting or losing defense information
<u>18 US Code § 798</u>	Disclosure of classified information
<u>18 US Code § 1001</u>	False statements
<u>18 US Code § 1505</u>	Obstruction of justice
<u>18 US Code § 1519</u>	Destruction (alteration or falsification) of Records in Federal Investigations or/and Bankruptcy.
<u>18 US Code § 1621</u>	Perjury (including documents signed under penalties of perjury)
<u>18 US Code § 1905</u>	Disclosure of confidential information
<u>18 US Code § 1924</u>	Unauthorized removal and retention of classified documents or material

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18 US Code § 2071

Concealment (removal or mutilation) of government records

18 US Code § 3077

Definitions: (8)(A) act of espionage (violations of 18 US Code § 793 and/or 18 US Code § 798)

Is Hillary Clinton Guilty of Espionage?

What is “espionage”?

The applicable federal law:

U.S. Code, Title 18, Part II, Chapter 204, § 3077 - Definitions:

As used in this chapter, the term—

(8) “act of espionage” means an activity that is a violation of—

(A) **section 793**, 794, or **798** of this title; or

(B) section 4 of the Subversive Activities Control Act of 1950.

The law *clearly* defines any activity that violates any one or more of sections 793, 794, or 798 constitutes an “act of espionage” against the United States.

(Note: **Bold emphasis** added above, where appropriate.)

Applicable provisions of federal law governing an “act of espionage”:

U.S. Code, Title 18, Part I, Chapter 37, § 793 - Gathering, transmitting or losing defense information:

Provisions violated include: (f) and (g), and possibly (d):

- (d) Whoever, lawfully having possession of, access to, control over, or being entrusted with any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated, delivered, or transmitted or attempts to communicate, deliver, transmit or cause to be communicated, delivered or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it on demand to the officer or employee of the United States entitled to receive it; or
- (f) Whoever, being entrusted with or having lawful possession or control of any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, note, or information, relating to the national defense, (1) through gross negligence permits the same to be removed from its proper place of custody or delivered to anyone in violation of his trust, or to be lost, stolen, abstracted, or destroyed, or (2) having knowledge that the same

has been illegally removed from its proper place of custody or delivered to anyone in violation of its trust, or lost, or stolen, abstracted, or destroyed, and fails to make prompt report of such loss, theft, abstraction, or destruction to his superior officer—
Shall be fined under this title or imprisoned not more than ten years, or both.

- (g) If two or more persons conspire to violate any of the foregoing provisions of this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense which is the object of such conspiracy.

U.S. Code, Title 18, Part I, Chapter 37, § 798 - Disclosure of classified information

Provisions violated include: (a) and (b):

- (a) Whoever knowingly and willfully communicates, furnishes, transmits, or otherwise makes available to an unauthorized person, or publishes, or uses in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States any classified information—
- (1) concerning the nature, preparation, or use of any code, cipher, or cryptographic system of the United States or any foreign government; or
 - (2) concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used or prepared or planned for use by the United States or any foreign government for cryptographic or communication intelligence purposes; or
 - (3) concerning the communication intelligence activities of the United States or any foreign government; or
 - (4) obtained by the processes of communication intelligence from the communications of any foreign government, knowing the same to have been obtained by such processes—

Shall be fined under this title or imprisoned not more than ten years, or both.

- (b) As used in subsection (a) of this section—
The term “classified information” means information which, at the time of a violation of this section, is, for reasons of national security, specifically designated by a United States Government Agency for limited or restricted dissemination or distribution;

The terms “code,” “cipher,” and “cryptographic system” include in their meanings, in addition to their usual meanings, any method of secret writing and any mechanical or electrical device or method used for the purpose of disguising or concealing the contents, significance, or meanings of communications;

The term “foreign government” includes in its meaning any person or persons acting or purporting to act for or on behalf of any faction, party, department, agency, bureau, or military force of or within a foreign country, or for or on behalf of any government or any person or persons purporting to act as a government within a foreign country, whether or not such government is recognized by the United States;

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The term “communication intelligence” means all procedures and methods used in the interception of communications and the obtaining of information from such communications by other than the intended recipients;

The term “unauthorized person” means any person who, or agency which, is not authorized to receive information of the categories set forth in subsection (a) of this section, by the President, or by the head of a department or agency of the United States Government which is expressly designated by the President to engage in communication intelligence activities for the United States.

“Pay to Play” Influence Peddling as Secretary of State

As Secretary of State, Hillary Clinton violated elements of the following federal criminal codes by selling special discretionary exemptions to US law to foreign entities in exchange for large sums of cash donated to the Clinton Foundation:

<u>18 US Code § 201</u>	Bribery
<u>18 US Code § 208</u>	Acts affecting a personal financial interest (includes recommendations)
<u>18 US Code § 1341</u>	Frauds and swindles (mail fraud)
<u>18 US Code § 1343</u>	Frauds by wire
<u>18 US Code § 1349</u>	Attempt and conspiracy (to commit fraud)

For greater detail exposing the Clintons’ “Pay to Play” scheme, [watch the YouTube video, “Clinton Cash.”](#)

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Please disseminate widely.

Sources:

Transcription of portions of the Sean Hannity Show on FOX News, October 28, 2016.

[U.S. Code from Cornell University Law School Legal Information Institute](#)