



Written by [C. Mitchell Shaw](#) on January 25, 2016

IG's Letter: Hillary May Face Legal Problems Over E-mails

The State Department has released more than 80 percent of the e-mails from Hillary Clinton's private server (many of them redacted to protect government secrets) and promises to release the rest by the end of the month. Those e-mails tell a different story from the one Clinton has been telling for months.



The former First Lady and current presidential candidate has steadfastly denied that she ever "sent or received any e-mail that was deemed classified, that was marked classified" from the private, unsecured e-mail server she used as secretary of state. If only it were that simple. The problem is that Clinton — like her husband — prefers to define her own terms. By making the point that the information contained in her e-mails was not "marked classified" and implying that that means it was not "deemed classified," Clinton — and her campaign — have deliberately missed the point.

As *The New American* [reported](#) in November 2015, some intelligence is "born classified," whether it was ever marked that way or not. As we wrote then:

In fact, inherent to her job was the understanding that certain intelligence is "born classified." In other words, certain information is considered classified by its very nature and the nature of its inception. If she then communicated that information to someone who lacked the appropriate clearance, she would be guilty of violating federal law.

J. William Leonard was the director of the U.S. Information Security Oversight Office from 2002 to 2008. The *Washington Free Beacon* quotes him, in an interview with [Reuters](#) in August, as saying, "If a foreign minister just told the secretary of state something in confidence, by U.S. rules that is classified at the moment it's in U.S. channels and U.S. possession." So whether or not it was "marked classified," any such information that Hillary sent or received over her unsecured, unauthorized, private e-mail server would have been a violation of federal law.

We reported then that "at least a dozen e-mails that called her server home were classified and *at least two of those were 'Top Secret.'*" It is now known that at least 1,340 e-mails sent or received by Clinton contained information that was classified and several dozen of those e-mails contained intelligence that was classified at the highest levels. That means — based on an extrapolation of the number of e-mails released so far — that of the 1,470 days that she served as secretary of state, Clinton sent or received classified information over her unsecured network an average of more than once a day.



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While Clinton and her server have been the focus of investigations and hearings, she has so far avoided any legal charges as a result of her actions. That may change now. According to Fox News, the Intelligence Community Inspector General I. Charles McCullough III sent a letter dated January 14 to the chairmen of the Senate Intelligence and Foreign Relations Committees, as well as to the heads of the Office of the Director of National Intelligence and the State Department's inspector general in which he says, "To date, I have received two sworn declarations from one [intelligence community] element. These declarations cover several dozen emails containing classified information determined by the IC element to be at the confidential, secret, and top secret/sap levels."

Information at the SAP (Special Access Program) level deals with intelligence matters involving some of the nation's most closely held secrets — including the names of those who collected the intelligence. Disclosing SAP information could put "human assets" at real risk. SAP is a higher level than Top Secret. For Clinton to have sent or received e-mails containing SAP data is not only an extremely serious crime, but also a grave breach of trust. Her claim that she "never sent or received any e-mail that was deemed classified, that was marked classified" would require that she was so inept that she simply did not recognize the data as SAP. Fox News quotes a former official "with decades of experience investigating violations of SAP procedures" as saying, "There is absolutely no way that one could not recognize SAP material. It is the most sensitive of the sensitive."

As she continues to be hounded by the server scandal, Clinton has shifted gears slightly. While not giving up on her initial defense, she is adding to it. She cannot deny that many of her e-mails contained Top Secret/SAP information, since the e-mails have been released and show the lie. Instead, she dismissed the issue, saying that her e-mails contained only information that had already been reported by the media. "How a *New York Times* public article that goes around the world could be in any way viewed as classified, or the fact that it would be sent to other people off of the *New York Times* site, I think, is one of the difficulties that people have in understanding what this is about," she told NPR.

While that may pass for a logic in the recesses of the Clintonian mind, the facts — again — are against her. In the wake of WikiLeaks publishing a trove of State Department cables in 2010, many of which were classified, the Office of Management and Budget notified federal employees that they should neither access nor share any of the information WikiLeaks had published. Part of that notice said, "Classified information, whether or not already posted on public websites or disclosed to the media, remains classified, and must be treated as such by federal employees and contractors, until it is declassified by an appropriate U.S. Government authority."

Since this was during Clinton's tenure as secretary of state, and considering that she had signed two separate [non-disclosure agreements](#), her claims of innocence based on ignorance ring a little hollow. With the inspector general's letter to lawmakers pointing out her violation of federal laws regarding the unauthorized disclosure of state secrets, Clinton — who was at one time the nominee-apparent — may actually face charges. Judge Andrew Napolitano appeared on *America's Newsroom* with Bill Hemmer last week and said, "It's hard to believe that the FBI will not recommend indictment of Mrs. Clinton," adding, "The fact that she failed to safeguard that, that she put it on a non-secured, non-government server after she swore an oath, the same oath that General Petraeus did to secure it makes her a prime candidate for prosecution."

In response to the inspector general's letter, Clinton reached back to 1998 to the playbook she used during her husband's impeachment: It's part of a vast right-wing conspiracy. Her top campaign spokesman, Brian Fallon, said the IG is working with Republicans and is "selectively" leaking



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information that is damning to Clinton, according to NBC's Andrea Mitchell.

Democrat voters will have to decide whether they can cast a vote for the woman who failed — by either feckless disregard or outright incompetence — to perform the basic functions of her last job. If not, socialist Bernie Sanders will continue to close the already narrowing gap. Of course, if Clinton is charged, those voters may be spared the agony of that decision.



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