



Written by [C. Mitchell Shaw](#) on November 8, 2015

Non-Disclosure Agreement: Hillary Knew She Was Breaking the Law

During her tenure as secretary of state, Hillary Clinton stored classified information on her unsecured, unauthorized, private e-mail server. Though she has steadfastly maintained that she “never sent or received any e-mail that was deemed classified, that was marked classified,” the evidence says otherwise. It is now known for certain that Mrs. Clinton signed a non-disclosure agreement (NDA) as part of her employment as secretary of state. That she violated that NDA is certain.



Her [NDA](#) came to light as the result of an open records request by the [Competitive Enterprise Institute \(CEI\)](#). According to its website, CEI is “a non-profit public policy organization dedicated to advancing the principles of limited government, free enterprise, and individual liberty.” Once CEI had the NDA, it made it available to the [Washington Free Beacon](#), which published it. The language of the NDA removes all doubt that Hillary Clinton was aware of the criminal nature and inherent national security risks associated with her actions. Disregarding something is not ignorance; it is worse.

Like many Americans, this writer has had occasion to sign NDAs as a condition of employment. Failing to abide by those agreements is cause for dismissal, civil action, and/or criminal charges. As a matter of integrity and simple self interest, most people would take that seriously and ask themselves what the NDA requires of them and what it prohibits.

Not Hillary Clinton, though. After all, she and President Clinton have never had to answer for anything. They twist the meaning of words and play lawyer with simple facts until they somehow manage to wriggle free of whatever twisted mess they’ve gotten themselves into.

For Bill, the infamous prime example is, “It depends on what the meaning of the word ‘is’ is.” For Hillary, it is that she “never sent or received any e-mail that was deemed classified, that was marked classified.”

The NDA signed by Mrs. Clinton on her second day as secretary of state spells out — in language so clear that the meaning of the word “is” is quite unambiguous — her responsibility in handling the sensitive information to which she would have access in her new job. One part reads, “I have been advised that the unauthorized disclosure, unauthorized retention, or negligent handling of SCI [Sensitive Compartmented Information] by me could cause irreparable injury to the United States or be used to advantage by a foreign nation.” The agreement goes on to address how Secretary Clinton could be sure she was abiding by the letter and the spirit of the agreement. “I understand that it is my responsibility to consult with appropriate management authorities in the Department ... in order to ensure that I know whether information or material within my knowledge or control ... might be SCI,” the NDA says.

And yet, while the ink of her signature was still wet, Hillary made the decision to re-purpose Bill’s old e-



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mail server into her own server to be used for official government business. She and her campaign have made much of the fact that she was permitted, by State policy, to operate a private server. Part for the course, though, the fact is conveniently left out that her server was not authorized to contain, store, transmit, or receive classified information.

This is why she denies that she ever “sent or received any e-mail that was deemed classified, that was marked classified.” Because to Hillary it was only classified if it was *marked* classified and if it was marked so *when she sent or received it*. The NDA she signed does not accept that elastic definition. Remember, she signed a document agreeing that “I understand that it is my responsibility to consult with appropriate management authorities in the Department ... in order to ensure that I know whether information or material within my knowledge or control ... might be SCI.” If the only information she had to worry about was that which was *marked*, there would be no need for Secretary Clinton to “consult with appropriate management authorities in the Department ... in order to ensure that [she knew] whether information or material within [her] knowledge or control ... might be SCI.”

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 — 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.

And she knew it.

[The New American](#) reported back in September that the CIA had confirmed that e-mails on her server were indeed classified. As we said in that report:

New revelations in the Hillary Clinton e-mail scandal are damning to her claims that she “never sent or received any e-mail that was deemed classified, that was marked classified.” A new intelligence review by the CIA confirms that at least two e-mails have already been found that did contain information that was highly classified.

This matters, because it means that, according to her NDA, Hillary knowingly violated federal law. As *The Washington Free Beacon* reported:

Clinton’s NDA spells out stiff criminal penalties for “any unauthorized disclosure of SCI.” The FBI is currently investigating whether Clinton’s private email server violated any federal laws.

In addition to her SCI agreement, Clinton signed a separate NDA for all other classified information. It contains similar language, including prohibiting “negligent handling of classified information,” requiring her to ascertain whether information is classified and laying out criminal penalties.

It adds, “I will never divulge classified information to anyone unless: (a) I have officially verified that the recipient has been properly authorized to receive it; or (b) I have been given prior written notice of authorization” from the proper authorizers.



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Cheryl Mills and Huma Abedin, Clinton's two top aides, also signed copies of the classified information NDA.

As the FBI investigation of Mrs. Clinton's server continues, it is already clear that at least a dozen e-mails that called her server home were classified and *at least two of those were "Top Secret."*

Whether any of this will result in criminal charges or do any real damage to her presidential campaign depends on how much Teflon rubbed off of Bill onto her.

Photo of Hillary Clinton: AP Images



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