

July 15, 2016

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Federal Bureau of Investigation
Department of Justice
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**RE: FOIA Request to U.S. Department of Justice and Federal Bureau of Investigation
Regarding Attorney General Loretta Lynch's June 27, 2016, Meeting With Bill
Clinton**

Dear Mr. Hardy:

This letter is a request ("Request") in accordance with the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and the corresponding department/agency implementing regulations.

The Request is made by the American Center for Law and Justice ("ACLJ")¹ on behalf of itself and over 80,000 of its members. The ACLJ respectfully seeks expedited processing and a waiver of fees related to this Request as set forth in an accompanying memorandum.

To summarize, this Request seeks any and all records pertaining to Attorney General Loretta Lynch's meeting with former President Bill Clinton on June 27, 2016, which occurred on her airplane at the Sky Harbor International Airport in Phoenix, Arizona.

Background

Pursuant to DOJ FOIA regulation 28 C.F.R. §16.3(b), this Background addresses "the date, title or name, author, recipient, subject matter of the record[s]" requested, to the extent known.

¹ The ACLJ is a not-for-profit 501(c)(3) organization dedicated to the defense of constitutional liberties secured by law. The ACLJ regularly monitors governmental activity and works to inform the public of such affairs. The ACLJ and its global affiliated organizations are committed to ensuring governmental accountability and the ongoing viability of freedom and liberty in the United States and around the world.

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As is being covered extensively by the press, Attorney General Loretta Lynch and former President Bill Clinton met on General Lynch's private airplane on Monday, June 27, 2016, on the tarmac at Sky Harbor International Airport in Phoenix, Arizona.

According to CNN's report, "Lynch and Bill Clinton met privately in Phoenix Monday after the two realized they were on the same tarmac, an aide to the former president said."² But according to other reports, "Clinton was reportedly notified that Lynch would be landing in Phoenix soon and waited in order to meet her."³ Reportedly, "[t]he former president then walked over to the attorney general's plane to speak to Ms. Lynch and her husband."⁴ As reported by The Hill, "[a] law enforcement official familiar with the matter told CNN that Lynch's FBI security detail did not stop Clinton when he moved to initiate the extended conversation."⁵ "The entire meeting lasted about 30 minutes."⁶ CNN quoted General Lynch as describing the conversation as "primarily social."⁷

This matter is of grave importance to the public. General Lynch is the head of the Department of Justice — and the nation's chief law enforcement officer. As recognized by a United States District Judge⁸ and the White House⁹, the DOJ was, at the time of the meeting at issue, engaged in a "criminal investigation" of Hillary Clinton, Bill Clinton's wife, former Secretary of State and now leading Democratic presidential candidate, with respect to her use and deletion of emails. At the time of the meeting, the DOJ itself had described the investigation as a "law enforcement matter."¹⁰

²Eli Watkins, *Bill Clinton Meeting Causes Headaches for Hillary*, CNN.COM (Jun. 20, 2016, 9:26 PM), <http://www.cnn.com/2016/06/29/politics/bill-clinton-loretta-lynch/>.

³Alex Griswold, *Loretta Lynch Privately Meets with Bill Clinton Aboard Personal Plane*, MEDIAITE.COM (Jun. 29, 2016, 1:22 PM), <http://www.mediaite.com/tv/loretta-lynch-privately-meets-with-bill-clinton-aboard-personal-plane/>.

⁴*Attorney General Lynch has Private Meeting with Bill Clinton*, FOXNEWS.COM (Jun. 29, 2016), <http://www.foxnews.com/politics/2016/06/29/attorney-general-lynch-meets-with-bill-clinton-privately.html>.

⁵Jesse Byrnes, *Lynch Meeting with Bill Clinton Creates Firestorm for Email Case*, THEHILL.COM (Jun. 30, 2016, 1:56 PM), <http://thehill.com/policy/national-security/286143-lynch-clinton-meeting-creates-firestorm>.

⁶Griswold, *supra* note 3; Geoff Earle, *Loretta Lynch Held Private Talks with Bill Clinton Aboard a Plane in Phoenix while Her Department Investigates Hillary*, DAILYMAIL.CO.UK (Jun. 29, 2016, 6:03 PM), <http://www.dailymail.co.uk/news/article-3666856/Loretta-Lynch-held-private-talks-Bill-Clinton-aboard-plane-Phoenix-department-investigates-Hillary.html>.

⁷Watkins, *supra* note 2 (emphasis added).

⁸Josh Gerstein, *Judge Links Clinton Aide's Immunity to 'Criminal Investigation'*, POLITICO.COM (Jun. 14, 2016, 11:46 AM), <http://www.politico.com/story/2016/06/hillary-clinton-judge-investigation-224314>; Stephen Dinan, *Judge Confirms 'Criminal Investigation' into Clinton Emails*, WASHINGTONTIMES.COM (Jun. 14, 2016), <http://www.washingtontimes.com/news/2016/jun/14/judge-confirms-criminal-probe-clinton-emails/>.

⁹*White House Confirms 'Criminal' Probe over Clinton Emails, 'Shreds' Campaign Claim*, FOXNEWS.COM (Jun. 10, 2016), <http://www.foxnews.com/politics/2016/06/10/white-house-confirms-criminal-probe-over-clinton-emails-shreds-campaign-claim.html>.

¹⁰*DOJ Acknowledges Hillary Email Investigation is a 'Law Enforcement Matter'*, INSIDER.FOXNEWS.COM (May 2, 2016), <http://insider.foxnews.com/2016/05/02/judge-napolitano-new-developments-hillary-clinton-email-investigation-justice-department>.

According to Sen. Chris Coons (D-Del.), “it doesn’t send the right signal.”¹¹ Indeed, both the meeting and the “personal or political relationship,” 5 C.F.R. § 45.2, evidenced by the meeting and affirmed by General Lynch in her comments after the meeting implicate Federal Regulations and DOJ Standards of Conduct.¹²

Less than a week after the meeting occurred on General Lynch’s airplane, it was reported that the FBI interviewed Hillary Clinton on Saturday, July 2, 2016, over the July 4th weekend.¹³ Then, on Tuesday, July 5, 2016, FBI Director James Comey announced the FBI was not recommending that Hillary Clinton be prosecuted “for her handling of classified documents and sensitive information, which she conducted on a private email server during her time as secretary of state.”¹⁴ On July 6, 2016, General Lynch announced: “I received and accepted their unanimous recommendation that the thorough, year-long investigation be closed and that no charges be brought against any individuals within the scope of the investigation.”¹⁵ Thus, the criminal investigation is over.

Records Requested

For purposes of this Request, the term “record” is “any information” that qualifies under 5 U.S.C. § 552(f), and includes, but is not limited to, the original or any full, complete and unedited copy of any log, chart, list, memorandum, note, correspondence, writing of any kind, policy, procedure, guideline, agenda, handout, report, transcript, set of minutes or notes, video, photo, audio recordings, or other material. The term “record” also includes, but is not limited to, all relevant information created, stored, received or delivered in any electronic or digital format, e.g., electronic mail, instant messaging or Facebook Messenger, iMessage, text messages or any other means of communication, and any information generated, sent, received, reviewed, stored or located on a government or private account or server, consistent with the holdings of *Competitive Enterprise Institute v. Office of Science and Technology Policy*, No. 15-5128 (D.C. Cir. July 5, 2016)¹⁶ (rejecting agency argument that emails on private email account were not under agency control, and holding, “If a department head can deprive the citizens of their right to know what his department is up to by the simple expedient of maintaining his departmental emails on an account in another domain, that purpose is hardly served.”).

¹¹Byrnes, *supra* note 5.

¹² Moreover, the press has highlighted the fact that “[t]he encounter took place ahead of the public release Tuesday morning of the House Benghazi Committee’s report on the 2012 attack on a U.S. consulate in Libya.” Watkins, *supra* note 2. According to one source, the “meeting” “occurred just hours before” the Benghazi Committee’s report’s release. Earle, *supra* note 6.

¹³Byron Tau, *Hillary Clinton Interviewed by FBI in Email Probe*, WSJ.COM (Jul. 2, 2016, 7:39 PM), <http://www.wsj.com/articles/hillary-clinton-interviewed-by-fbi-1467478221>.

¹⁴Gregory Krieg, *FBI Boss Comey’s 7 Most Damning Lines on Clinton*, CNN.COM (Jul. 5, 2016, 6:05 PM), <http://www.cnn.com/2016/07/05/politics/fbi-clinton-email-server-comey-damning-lines/>.

¹⁵Eric Bradner, *AG Loretta Lynch Declines to Press Charges Against Clinton*, CNN.COM (Jul. 6, 2016, 8:13 PM), <http://www.cnn.com/2016/07/06/politics/loretta-lynch-hillary-clinton-emails-no-charges/>.

¹⁶[https://www.cadc.uscourts.gov/internet/opinions.nsf/75450CA390CB52C985257FE7005038BD/\\$file/15-5128-1622973.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/75450CA390CB52C985257FE7005038BD/$file/15-5128-1622973.pdf).

For purposes of this Request, the term “briefing” includes, but is not limited to, any in-person meeting, teleconference, electronic communication, or other means of gathering or communicating by which information was conveyed to one or more person.

For purposes of this Request, the term “DOJ official” includes, but is not limited to, any person who is (1) employed by or on behalf of the U.S. Department of Justice or Federal Bureau of Investigation in any capacity; (2) contracted for services by or on behalf of the U.S. Department of Justice or Federal Bureau of Investigation in any capacity; or (3) appointed by the President of the United States to serve in any capacity at the U.S. Department of Justice or Federal Bureau of Investigation, all without regard to the component or office in which that person serves.

For purposes of this Request, and unless otherwise indicated, the timeframe of records requested herein is June 13, 2016, to the date this Request is processed.

Pursuant to FOIA, 5 U.S.C. § 552 *et seq.*, ACLJ hereby requests that the U.S. Department of Justice produce the following within twenty (20) business days:

Records Regarding Names of DOJ Officials Involved in Meeting-Related Discussions or Decisions

1. Any and all records containing the names of any DOJ official, staff or employee who participated in any discussion regarding the meeting between General Lynch and Bill Clinton that occurred on Monday, June 27, 2016, at Sky Harbor International Airport in Phoenix, Arizona.
2. Any and all records containing the names of any DOJ official, staff or employee who participated in any decision on or determination of whether clearance, authorization or permission should be granted or in fact would be granted to Bill Clinton to board General Lynch’s airplane on Monday, June 27, 2016, at Sky Harbor International Airport in Phoenix, Arizona.
3. Any and all records containing the names of any person present in the passenger compartment of General Lynch’s airplane during the meeting between General Lynch and Bill Clinton that occurred on Monday, June 27, 2016, at Sky Harbor International Airport in Phoenix, Arizona.

Records Regarding Meeting-Related Discussions or Decision

4. Any and all records, communications or briefings prepared, sent, received or reviewed by General Lynch or any other DOJ official, staff or employee, *before* the meeting between General Lynch and Bill Clinton that occurred on Monday, June 27, 2016, at Sky Harbor International Airport in Phoenix, Arizona, containing any discussion of or in any way regarding the meeting.

5. Any and all records, communications or briefings prepared, sent, received or reviewed by General Lynch or any other DOJ official, staff or employee, *at any time*, containing any discussion of or in any way regarding the meeting between General Lynch and Bill Clinton that occurred on Monday, June 27, 2016, at Sky Harbor International Airport in Phoenix, Arizona.

6. Any and all records prepared, sent, received or reviewed by General Lynch or any other DOJ official, staff or employee, at any time, containing any discussion of or in any way regarding the decision to grant clearance, authorization or permission to Bill Clinton to board General Lynch's airplane on Monday, June 27, 2016, at Sky Harbor International Airport in Phoenix, Arizona.

Records Regarding Communications Received From Bill Clinton or Regarding His Presence

7. Any and all records of any communication or briefing received by General Lynch, any DOJ official, staff or employee from Bill Clinton or his staff regarding the meeting between General Lynch and Bill Clinton that occurred on Monday, June 27, 2016, at Sky Harbor International Airport in Phoenix, Arizona, *regardless of whether the communication or briefing was received before, during, or after the meeting.*

8. Any and all records of any communication or briefings by which General Lynch was advised that Bill Clinton was present at the Sky Harbor International Airport in Phoenix, Arizona, on Monday, June 27, 2016.

Records Regarding Any Discussion of Bill Clinton

9. Any and all records of any communication or briefing prepared, sent, received or reviewed by General Lynch, her staff, or any other DOJ official or employee or any other person *from June 13, 2016 to Sunday, June 26, 2016*, containing any discussion of or in any way naming, regarding, involving or referencing Bill Clinton.

10. Any and all records of any communication or briefing prepared, sent, received or reviewed by General Lynch, her staff, or any other DOJ official or employee on Monday, June 27, 2016, containing any discussion of or in any way naming, regarding, involving or referencing Bill Clinton, regardless of whether the communication or briefing was prepared or sent before, during or after the meeting between General Lynch and Bill Clinton.

11. Any and all records of any communication or briefing prepared, sent, received or reviewed by General Lynch, her staff, or any other DOJ official or employee on Tuesday, June 28, 2016, *or after*, containing any discussion of or in any way naming, regarding, involving or referencing Bill Clinton.

Records Regarding Discussion of Ethics Rules or Professional Codes of Conduct Governing Attorneys

12. Any and all records of any communication or briefing prepared, sent, received or reviewed by General Lynch, her staff, or any other DOJ official or employee *before* the meeting on Monday, June 27, 2016, between General Lynch and Bill Clinton at Sky Harbor International Airport in Phoenix, Arizona, containing any discussion of ethics rules or DOJ Standards of Conduct governing attorneys in connection with the meeting *or* Lynch's relationship with Bill Clinton.

13. Any and all records of any communication or briefing prepared, sent, received or reviewed by General Lynch, her staff, or any other DOJ official or employee *after* the meeting on Monday, June 27, 2016, between General Lynch and Bill Clinton at Sky Harbor International Airport in Phoenix, Arizona, containing any discussion of ethics rules or DOJ Standards of Conduct governing attorneys in connection with the meeting *or* Lynch's relationship with Bill Clinton.

14. Any and all records, communications or briefings prepared, sent, received or reviewed by General Lynch, her staff, any DOJ official or employee, regarding or containing any discussion of the contents or requirements of 5 C.F.R. § 45.2 in connection with the meeting *or* Lynch's relationship with Bill Clinton..

Records Regarding Discussion of or Decisions on Response to Press

15. Any and all records of any communication or briefing prepared, sent, received or reviewed by General Lynch, her staff, or any other DOJ official or employee *after* the meeting on Monday, June 27, 2016, between General Lynch and Bill Clinton at Sky Harbor International Airport in Phoenix, Arizona, containing any *discussion of the press, responding to the press, or the content of any press release or public statements* in connection with the meeting.

16. Any and all records of any communication or briefing prepared, sent, received or reviewed by General Lynch, her staff, or any other DOJ official or employee *after* the meeting on Monday, June 27, 2016, between General Lynch and Bill Clinton at Sky Harbor International Airport in Phoenix, Arizona, containing any *decision regarding the press, responding to the press, or the content of any press release or public statements* in connection with the meeting.

CONCLUSION

As you are undoubtedly aware, President Obama's Freedom of Information Act Memorandum of January 21, 2009, declares:

A democracy requires accountability, and accountability requires transparency. As Justice Louis Brandeis wrote, "sunlight is said to be the best of disinfectants." In our democracy, the Freedom of Information Act (FOIA), which encourages accountability through transparency, is the most prominent expression of a

profound national commitment to ensuring an open Government. At the heart of that commitment is the idea that accountability is in the interest of the Government and the citizenry alike.

The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears. Nondisclosure should never be based on an effort to protect the personal interests of Government officials at the expense of those they are supposed to serve. In responding to requests under the FOIA, executive branch agencies (agencies) should act promptly and in a spirit of cooperation, recognizing that such agencies are servants of the public.

All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government. The presumption of disclosure should be applied to all decisions involving FOIA.¹⁷

As such, if this Request is denied in whole or in part, ACLJ requests that, within the time requirements imposed by FOIA, you support all denials by reference to specific FOIA exemptions and provide any judicially required explanatory information, including but not limited to, a *Vaughn* Index.

Moreover, as explained in an accompanying memorandum, the ACLJ is entitled to expedited processing of this Request as well as a waiver of all fees associated with it. ACLJ reserves the right to appeal a decision to withhold any information sought by this request and/or to deny the separate application for expedited processing and waiver of fees.

Thank you for your prompt consideration of this Request. Please furnish all applicable records and direct any responses to:

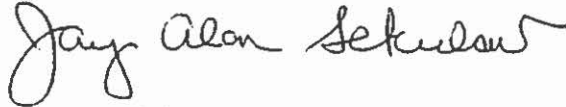
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¹⁷PRESIDENT BARACK OBAMA, MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES RE: FREEDOM OF INFORMATION ACT (Jan. 21, 2009), available at https://www.whitehouse.gov/the_press_office/FreedomofInformationAct.

I affirm that the foregoing request and attached documentation are true and correct to the best of my knowledge and belief.

Respectfully submitted,



Jay Alan Sekulow
Chief Counsel



Colby M. May
Senior Counsel

cc: FOIA/PA Mail Referral Unit, Department of Justice
Director of Public Affairs, Office of Public Affairs, Department of Justice