



## **FBI Director Raps Clinton but Recommends No Criminal Action**

John P. Mello Jr.

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Although an FBI investigation concluded that Hillary Clinton's use of a separate email system during her tenure as Secretary of State may have violated federal law, Director James B. Comey on Tuesday recommended against pursuing any criminal prosecution.

"Although there is evidence of potential violations of the statutes regarding the handling of classified information, our judgment is that no reasonable prosecutor would bring such a case," he said.

Considered in light of the bureau's actions in similar cases in the past, Comey explained, the facts in the Clinton case do not warrant the filing of criminal charges.

"All the cases prosecuted involved some combination of clearly intentional and willful mishandling of classified information, or vast quantities of materials exposed in such a way as to support an inference of intentional misconduct, or indications of disloyalty to the United States, or efforts to obstruct justice," he said. "We do not see those things here."

As a result of its investigation, the FBI is "expressing to Justice our view that no charges are appropriate in this case," Comey said.

### **Careless Handling of Confidential Emails**

Although the Justice Department isn't bound by the FBI recommendation against criminal prosecution, it is unlikely to disregard it.

"Once the FBI director says no reasonable prosecutor would bring charges, it makes it difficult for [DOJ] to disagree," said Julian Sanchez, a senior fellow at the [Cato Institute](#).

"It's more common for DoJ not to pursue a case the FBI recommends for prosecution than to pursue a case law enforcement says isn't worth prosecuting," he told the E-Commerce Times. "I would be pretty surprised if the DoJ decided to go a different route here."

Comey criticized the Clinton State Department's handling of sensitive email.

"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," he said.

### **Gmail More Secure**

Of the 30,000 emails examined by FBI investigators, 110 in 52 chains contained classified information at the time they were sent or received, Comey explained. Eight of those chains contained information that was Top Secret at the time the emails were sent; 36 chains contained Secret information at the time; and eight contained Confidential information, which is the lowest level of classification.

In addition, 2,000 additional emails were classified as Confidential after they were sent.

"None of these emails should have been on any kind of unclassified system, but their presence is especially concerning because all of these emails were housed on unclassified personal servers not even supported by full-time security staff, like those found at departments and agencies of the U.S. government -- or even with a commercial service like Gmail," Comey said.

The carelessness shown by the Clinton State Department speaks to a larger issue with government in general, maintained Philip Lieberman, CEO of Lieberman Software.

"It is an unfortunate reality that appointees may not be fully vetted, skilled, experienced -- or may not have the resources to successfully complete their appointed tasks in government," he told the E-Commerce Times.

Appointees may bring fresh ideas to government, he explained, "but they may lack experience and wisdom needed to prevent outcomes known to experienced staff."

### **Good Hackers Cover Their Tracks**

Although the FBI could find no evidence that Clinton's system was compromised at any point, it maintained that it was possible.

"We did not find direct evidence that Secretary Clinton's personal email domain, in its various configurations since 2009, was successfully hacked. But given the nature of the system and of the actors potentially involved, we assess that we would be unlikely to see such direct evidence," Comey said.

"It's not surprising that there was no evidence of her system being hacked," commented Craig Kensek, a security expert with Lastline.

"Good hackers can quite easily cover their trails," he told the E-Commerce Times.

Comey identified a number of factors contributing to the FBI's conclusion that the system likely was hacked:

Hostile actors gained access to the private commercial email accounts of people with whom Clinton was in regular contact from her personal account.

Clinton's use of a personal email domain was both known by a large number of people and readily apparent.

Clinton used her personal email extensively while outside the United States, including sending and receiving work-related emails in the territory of sophisticated adversaries.

### **'System Rigged'**

The Clinton campaign praised the FBI's final report.

"We are pleased that the career officials handling this case have determined that no further action by the Department [of Justice] is appropriate," said Hillary for America campaign spokesperson Brian Fallon.

"As the secretary has long said, it was a mistake to use her personal email and she would not do it again," he added. "We are glad that this matter is now resolved."

Meanwhile, presumptive Republican Party presidential nominee Donald Trump was quick to rap the FBI's recommendation on his favorite medium, Twitter.

"FBI director said Crooked Hillary compromised our national security. No charges. Wow!" he tweeted.

"The system is rigged," Trump wrote in another tweet. "General Petraeus got in trouble for far less. Very very unfair! As usual, bad judgment."

House Speaker Paul Ryan, R-Wisc., was also critical of the FBI report.

"While I respect the law enforcement professionals at the FBI, this announcement defies explanation," he said.

"No one should be above the law," Ryan continued, "but based upon the director's own statement, it appears damage is being done to the rule of law. Declining to prosecute Secretary Clinton for recklessly mishandling and transmitting national security information will set a terrible precedent."

### **Issue Won't Go Away**

If the FBI's recommendation is accepted by the DoJ, the scimitar of indictment will no longer hang over candidate Clinton's head, but the email issue will continue to overshadow the campaign.

"The only good news out of this for Clinton is there wasn't an actual indictment," said the Cato Institute's Sanchez. "Given what Comey said, there's plenty of fuel for attacks throughout the campaign."

Without an indictment, however, the email issue isn't going to change the election campaign fundamentally, maintained Dan Kennedy, an associate professor at the school of journalism at Northeastern University.

"If the Republicans had settled on someone like Mitt Romney or Jeb Bush or even Marco Rubio, this could have been a really bad day for Clinton. This might have even been the day she lost the election," he told the E-Commerce Times.

"But she's not running against them," Kennedy continued. "She's running against Donald Trump. Does anyone switch from Clinton to Trump because of this? I don't think so."