



Written by [C. Mitchell Shaw](#) on August 29, 2015

FBI “A-team” Conducting Criminal Investigation of Hillary’s E-mail

If Hillary had worked half as hard to protect the data on her e-mail server as she has worked to protect herself from the fallout for not protecting the server, she could still be the Democrat Party’s assumptive nominee for president. And she wouldn’t be the subject of an “extremely serious” investigation conducted by an FBI “A-team.”



Hillary has spearheaded a campaign of misinformation from the beginning of the e-mail fiasco that has been called the “Wipewater scandal” by some journalists — a reference to the real estate development scandal that dogged the Clintons at the beginning of Bill’s presidency. A large part of the misinformation Hillary is putting out is aimed at playing the whole thing off as a big misunderstanding that isn’t really “an investigation” as much as it’s “an inquiry.”

But Fox News is [reporting](#) that an intelligence source told them that the FBI is taking her mishandling of classified defense information seriously. In fact, Hillary’s protestations to the contrary notwithstanding, the FBI is investigating this as a criminal matter. Fox News said:

An FBI “A-team” is leading the “extremely serious” investigation into Hillary Clinton’s server and the focus includes a provision of the law pertaining to “gathering, transmitting or losing defense information,” an intelligence source told Fox News.

The former secretary of state has steadfastly claimed, “I never sent or received any e-mail that was deemed classified, that was marked classified.” But the evidence says otherwise. As *The New American* [reported Wednesday](#):

E-mails to and from the private e-mail server that Mrs. Clinton turned over to the Justice Department did indeed contain “e-mail that was deemed classified, that was marked classified.” In fact, at least one such e-mail is still classified. This “smoking e-mail” was from her close aide, Huma Abedin. It was sent in April 2011.

Because only the agency which classifies intelligence can declassify it, the classified information in the e-mails which passed back and forth over Hillary’s “bathroom server” was not hers to declassify.

Hillary may try to play that off as “disagreement between agencies,” but the FBI is investigating it as a violation of 18 US Code 793 which is part of the Espionage Act. While Hillary’s campaign has made a point of the fact that there was never any intent on her part to violate the law, she ought to know that her intent is not the only thing in question. Subsection (f) of 18 US Code 793 says:



(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.

Hillary passed the bar exam. Sure, it's been a while since she practiced law, but it's not likely that she is so rusty in her "legalese" that she doesn't understand that, as secretary of state, she was "entrusted with" classified intelligence that was important to the defense of the nation she was supposed to be serving. She should also know that she "through gross negligence permit[ted] the same to be removed from its proper place of custody," since her private, unsecured e-mail server was not the "proper place of custody" for classified intelligence. Furthermore, when she read those e-mails, she "ha[d] knowledge that the same has been illegally removed from its proper place of custody" and yet "fail[ed] to make prompt report of such."

Even if all that is lost on her, she still violated those provisions. "Gross negligence" does not require her understanding or willful intent.

Her close aides, such as Huma Abedin, should be aware that they are likely in the crosshairs, too.

Subsection (g) of 18 US Code 793 says:

(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.

When faced with conspiracy charges, it may not take long for some of the conspirators to figure out that what they are really playing is a rousing game of "last man standing." The Clintons have always weathered the storms of their own making because they have had loyal followers willing to fall on their swords. That may not be the case this time, considering that the political clout of the Clintons isn't what it used to be.

To raise the stakes even higher — as if stiff fines and up to 10 years in prison weren't high enough — there is another law that may come into play before all this is over. If the FBI investigation shows that Hillary "willfully" removed classified intelligence, she could be disqualified from ever holding office again. 18 US Code 2071 subsection (b) says:

(b) Whoever, having the custody of any such record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, removes, mutilates, obliterates, falsifies, or destroys the same, shall be fined under this title or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States. As used in this subsection, the term "office" does not include the office held by any person as a retired officer of the Armed Forces of the United States.



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Earlier this month, Hillary's campaign communications director, Jennifer Palmieri, attempted to assuage the concerns of supporters. Her e-mail to those supporters said:

Hillary didn't send any classified materials over email: Hillary only used her personal account for unclassified email. No information in her emails was marked classified at the time she sent or received them. She viewed classified materials in hard copy in her office or via other secure means while travelling, not on email.

The denials of both Hillary and her campaign seem to indicate that she (and they) understood that sending or receiving classified e-mail over her private, unsecured e-mail server would be a violation of the Espionage Act. Now that it is increasingly clear that she did send and receive "e-mail that was deemed classified, that was marked classified," it also seems clear that the FBI will have little difficulty showing that she acted criminally.



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