

Report and Resolution Holding Bryan Pagliano  
in Contempt of Congress  
September 22, 2016  
*\*As Prepared\**

Today, the Committee will consider a Resolution and Report recommending Bryan Pagliano be held in contempt by the House of Representatives.

Mr. Pagliano is a crucial fact witness in this Committee's investigation of former Secretary of State Hillary Clinton's use of a private email server to conduct government business.

**Over the course of the investigation, we've learned some information about Mr. Pagliano's involvement in Secretary Clinton's use of a private server.**

Mr. Pagliano originally worked for Secretary Clinton on her 2008 presidential campaign as an IT specialist.

As he was closing out her campaign's computer equipment, he received a call from Justin Cooper, who testified before this Committee last week.

It was Mr. Cooper who requested Mr. Pagliano build a server for Ms. Clinton in early 2009 as she started her new job as Secretary of State.

Several months later in March 2009, the two men met in the basement of the Clinton's Chappaqua residence to install the new server Mr. Pagliano built.

Mr. Pagliano continued to monitor and maintain the server while Secretary Clinton was at the State Department.

After he set up the server, Mr. Pagliano joined Secretary Clinton at the State Department as a Schedule C appointee in the Bureau of Information and Resource Management.

By law, Schedule C appointees are required to report to a presidentially-appointed position.

But there were no presidential appointees in the Bureau of Information and Resource Management, making Mr. Pagliano's employment arrangement unusual.

Other employees in his Bureau later questioned his ability to support a private client's email server, given his capacity as a full-time government employee.

**Mr. Pagliano left the State Department in February 2013, the same month as Secretary Clinton.**

Even though he worked at the State Department for almost four years, the agency has only been able to find a handful of his emails.

Mr. Pagliano's emails are Federal Records – just like Secretary Clinton's emails – and subject to production in response to a Freedom of Information Act (FOIA) request.

The Committee has jurisdiction over both the Federal Records Act, and FOIA.

We also have a long record of oversight, investigative, and legislative work in this area.

**The Committee subpoenaed Mr. Pagliano to appear at a hearing on September 13, 2016.**

He didn't show.

I explained Mr. Pagliano was uniquely qualified to provide testimony to help the Committee better understand Secretary Clinton's use of a private email server.

This is undisputable.

I also made clear the Committee would consider all options regarding Mr. Pagliano's failure to appear, including consideration of recommending he be held in contempt.

The Committee then heard several hours of testimony from Mr. Cooper, who was also involved in setting up Secretary Clinton's email server.

Mr. Cooper – to his credit – explained a lot.

Throughout his testimony, Mr. Cooper routinely referred to Mr. Pagliano as the individual more appropriate to answer questions and who knew more about the server.

It was clear from Mr. Cooper's testimony – *his words, not ours* – that we needed to hear from Mr. Pagliano.

**Mr. Pagliano's attorney asserts because his client took the Fifth before the Select Committee on Benghazi, he shouldn't be required to provide testimony to this Committee.**

This is not a good faith argument.

It makes no sense, for a number of reasons.

First and foremost, the Select Committee's jurisdiction is limited.

- It only relates to the September 11, 2012 terrorist attack in Benghazi.
- In contrast, this Committee's jurisdiction is broad and includes both legislative and oversight of the Federal Records Act and FOIA.
- Questions about these two topics alone are well outside the purview of the Select Committee's investigation.
- Secretary Clinton's emails – and Mr. Pagliano's – were subject to both these laws.
- Mr. Pagliano could explain what he knew or was told about these laws.
- He could tell us whether they were considered by him, or others, in setting up Secretary Clinton's private email server.
- Mr. Pagliano's testimony could provide important information informing legislative reforms this Committee may want to consider ensuring this never happens again.
- This includes reforms based on how he was able to prevent the State Department from locating most of his emails.

Another key difference is last month, this Committee had the benefit of reviewing the testimony Mr. Pagliano *did provide* during his interview with the FBI.

- The Select Committee never saw that testimony.
- Nor was the Select Committee aware of the thousands of classified emails that traveled over Secretary Clinton's server when they spoke with Mr. Pagliano.

This Committee's questions are broader and more informed than any questions posed by the Select Committee, making a comparison unnecessary.

Further, answering a number of these questions could never subject Mr. Pagliano to criminal liability.

**The Department of Justice has confirmed Mr. Pagliano was granted immunity before he spoke to the FBI.**

Director Comey confirmed he was recommending no charges be brought against anyone involved in the matter.

Attorney General Lynch accepted that recommendation and closed the case.

Under those circumstances, Mr. Pagliano has no fear of criminal liability preventing him for answering questions from this Committee.

**The Committee recessed its September 13 hearing with Mr. Cooper to give Mr. Pagliano another opportunity to show up and testify.**

To clear up any ambiguity created by Mr. Pagliano's *six* lawyers about whether they would confirm service of the prior subpoenas – *which they refused to do* – we had the U.S. Marshals personally serve him.

We scheduled the continuation of the earlier hearing for this morning.

But once again, he didn't show.

This Committee cannot operate – it cannot perform its duty, nor can any committee of Congress – if its subpoenas are ignored.

So, we are left with no choice but to consider this Resolution and Report recommending the House hold Mr. Pagliano in Contempt of Congress.