

**Congress of the United States**  
**Washington, DC 20515**

August 22, 2016

Mr. Austin McChord  
Chief Executive Officer  
Datto, Inc.  
101 Merritt 7, 7th Floor  
Norwalk, CT 06851

Dear Mr. McChord:

The House Committee on Science, Space, and Technology and the Senate Committee on Homeland Security and Governmental Affairs are examining former Secretary of State Hillary Clinton's use of a private email account and server during her time at the State Department. The Committees understand that a product offered by Datto, Inc.—the Datto SIRIS S2000—was purchased in 2013 for Secretary Clinton to provide on-site, immediate recovery of backup data in the event that the primary server failed. According to Datto's previous written responses to the Committees, Datto could not produce documents pursuant to the Committees' requests<sup>1</sup> because it did not have consent from its client. Datto is uniquely situated to provide firsthand information about its product and how it was used in conjunction with Secretary Clinton's private server and email account. Therefore, in order to assist Datto in producing the requested information, Chairman Smith has enclosed a subpoena for that material.

For several months, we have sought Datto's voluntary cooperation with congressional efforts to understand the policy consequences of Secretary Clinton's use of a private server and email account. This effort, undertaken concurrently with a federal criminal investigation, has a different focus than the criminal inquiry and derives from different authority. "The scope of [Congress's] power of inquiry . . . is as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution."<sup>2</sup> The congressional investigatory power "encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes."<sup>3</sup> The Committees have particular jurisdiction in this inquiry pursuant to House Rule X and Senate Rule XXV, respectively.

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<sup>1</sup> On October 5, 2015, Senator Ron Johnson, chairman of the Senate Homeland Security and Governmental Affairs Committee, wrote to you seeking information about the Datto device used in conjunction with Secretary Clinton's private server. Separately, on January 14, 2016, Congressman Lamar Smith, chairman of the House Committee on Science, Space, and Technology, wrote to you seeking similar information. Datto declined to provide complete responses to the Committees' inquiries, citing that it did not have its client's consent to produce documents or information. On July 12, 2016, Chairman Smith and Johnson jointly reiterated their previous requests for information and materials, but Datto again declined through counsel, citing it did not have its client's consent.

<sup>2</sup> *Eastland v. U.S. Servicemen's Fund*, 421 U.S. 491, 504, n. 15 (1975) (quoting *Barenblatt v. United States*, 360 U.S. 109, 111 (1959)).


<sup>3</sup> *Watkins v. United States*, 354 U.S. 178, 187 (1957).

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On July 5, 2016, Federal Bureau of Investigation (FBI) Director James Comey announced the conclusion of the FBI's investigation into Secretary Clinton. Although the FBI did not recommend criminal charges against Secretary Clinton, Director Comey explained that Secretary Clinton's actions handling classified information were "extremely careless."<sup>4</sup> In addition, as we noted in our previous letter to you, the FBI identified numerous security concerns regarding Secretary Clinton's use of a private server and email account that could merit changes to federal law. While the FBI's criminal investigation is instructive for the Committees' examination, it does not substitute for the Committees' fact-finding. Among other topics, the Committees have questions about the structure and security of Secretary Clinton's email system, whether it was comparable to the cybersecurity standards prescribed by the NIST Framework, and the preservation of records on the system.

The information sought by the Committees is crucial in furthering the Committee's understanding of Secretary Clinton's private server and informing policy changes to prevent similar email arrangements in the future. Please provide the documents responsive to the enclosed subpoena by September 9, 2016. Please contact Drew Colliatie of Chairman Smith's staff with any questions about the subpoena. Thank you for your attention to this important matter.

Sincerely,



Lamar Smith  
Chairman  
Committee on Science, Space,  
and Technology  
U.S. House of Representatives



Ron Johnson  
Chairman  
Committee on Homeland Security  
and Governmental Affairs  
U.S. Senate

cc: The Honorable Eddie Bernice Johnson  
Ranking Minority Member  
Committee on Science, Space, and Technology

The Honorable Thomas R. Carper  
Ranking Member  
Committee on Homeland Security and Governmental Affairs

Enclosures

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<sup>4</sup> Fed. Bureau of Investigation, Statement by FBI Director James B. Comey on the Investigation of Secretary Hillary Clinton's Use of a Personal EMail System (July 5, 2016).