



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

The Honorable Christopher Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, D.C. 20535

April 18, 2022

Re: Renewed Request for Investigation of Donald J. Trump for
Violating Federal Law by Willfully Mutilating and Destroying Records

Dear Attorney General Garland and Director Wray:

Citizens for Responsibility and Ethics in Washington (“CREW”) and the National Security Archive write to supplement our letter of February 8, 2022, requesting that the Department of Justice (“DOJ” or the “Department”) investigate whether former President Donald J. Trump willfully mutilated and destroyed critical records of his presidency before leaving office, in violation of federal criminal law. Internal White House presidential call logs from January 6, 2021 that were produced to the Select Committee to Investigate the January 6th Attack on the United States Capitol (“January 6th Committee”) contain a significant gap of more than seven hours during a critical period when the Capitol was under attack by insurrectionists,¹ raising the possibility that portions of the call logs were willfully destroyed to cover up evidence of criminal misconduct.

As our previous letter outlines, former President Trump engaged in a pattern of conduct throughout his tenure in office that violated his recordkeeping obligations under the Presidential Records Act in multiple ways. Those violations also appear to violate federal statutes, specifically 18 U.S.C. § 1361, which makes it a crime to “willfully injure[] or commit[] any depredation” against United States property in excess of \$1,000, and 18 U.S.C. § 2071, which makes it a crime to willfully destroy or mutilate federal records. The latest revelations appear to be even more serious as they raise the possibility that the seven hour and 37-minute gap in White House call records from January 6, 2021, which covers the entirety of the assault on the Capitol, may result from purposeful conduct to conceal evidence.

¹ See, e.g., Bob Woodward and Robert Costa, Jan. 6 White House logs given to House show 7-hour gap in Trump calls, *Washington Post*, Mar. 29, 2022, <https://www.washingtonpost.com/politics/2022/03/29/trump-white-house-logs/>.

The time period during which there is a gap in the phone logs includes at least five calls from or to President Trump whose occurrence has been documented in the public record.² Among the missing calls is one widely reported call made by then-President Trump from a number recorded as 202-395-0000—indicating it was from an official White House phone—to Senator Mike Lee at 2:26 p.m. on January 6, 2021.³ Neither the President’s Daily Diary nor the call logs include this call.⁴ This call was notable because President Trump was trying to call Senator Tommy Tuberville, and it was during this call that Senator Tuberville, having been handed the phone by Senator Lee, informed President Trump that “they just took the vice president out” of the Senate chamber as rioters stormed the Capitol.⁵ Also missing from the call logs is a call President Trump made at 11:17 a.m. to then-Senator Kelly Loeffler, as evidenced by another presidential record released by NARA.⁶ The Daily Diary includes a call at that same time to “an unidentified person,” but oddly that call is missing from the call logs.⁷ The call logs also do not include calls President Trump is reported to have had with Vice President Mike Pence, Rep. Jim Jordan, and House Minority Leader Kevin McCarthy.⁸

Perhaps most striking about the incomplete January 6 call logs is the total lack of any call information between the critical period of 11:06 a.m., when President Trump’s call with Senator David Perdue ended, and 6:54 p.m., when President Trump reportedly had the White House operator place a call to Dan Scavino.⁹ President Trump spoke to a gathering of his supporters near the White House beginning at noon that day, less than an hour after his call with Senator Perdue.¹⁰ One hour later an initial wave of protestors began storming the Capitol, and by 1:30 p.m. they had overcome the police.¹¹ Nearly one hour later at 2:24 p.m. President Trump tweeted his criticism of Vice President Pence for lacking “the courage to do what should have been done to protect our Country and our Constitution.”¹² At 3:36 p.m. White House Press Secretary Kayleigh McEnany tweeted that President Trump had ordered the National Guard to the Capitol.¹³ At 4:17 p.m. President Trump tweeted a video directed to his supporters inside the Capitol urging them to go home but also telling them “We love you.

² Aaron Blake, What explains the suspicious gap in Trump’s call log?, *Washington Post*, Mar. 31, 2022, <https://www.washingtonpost.com/politics/2022/03/31/trump-call-log-gap-details/>.

³ Hugo Lowell, Revealed: Trump used White House phone for call on January 6 that was not on official log, *The Guardian*, Mar. 30, 2022, <https://www.theguardian.com/us-news/2022/mar/30/trump-used-white-house-phone-call-capitol-attack-jan-6-not-official-log>.

⁴ See Woodward and Costa, *Washington Post*, Mar. 29, 2022.

⁵ Kyle Cheney, Tuberville says he informed Trump of Pence’s evacuation before rioters reached Senate, *Politico*, Feb. 11, 2021, <https://www.politico.com/news/2021/02/11/tuberville-pences-evacuation-trump-impeachment-468572>; Lowell, *The Guardian*, Mar. 30, 2022.

⁶ Blake, *Washington Post*, Mar. 31, 2022.

⁷ Woodward and Costa, *Washington Post*, Mar. 29, 2022.

⁸ Aaron Blake, The inexplicable gap in the Trump White House’s Jan. 6 records, *Washington Post*, Mar. 29, 2022, <https://www.washingtonpost.com/politics/2022/03/29/inexplicable-gaps-trump-records/>.

⁹ Woodward and Costa, *Washington Post*, Mar. 29, 2022.

¹⁰ See Kat Lonsdorf, Courtney Dorning, Amy Isackson, Mary Louise Kelly and Alisa Chang, A timeline of how the Jan. 6 attack unfolded—including who said what and when, *NPR*, Jan. 5, 2022, <https://www.npr.org/2022/01/05/1069977469/a-timeline-of-how-the-jan-6-attack-unfolded-including-who-said-what-and-when>.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

You're very special."¹⁴ Shortly after 6:00 p.m. police were able to clear the Capitol.¹⁵ Only then do the call logs pick up with a call at 6:54 p.m. at the top of a new page.¹⁶ President Trump was clearly following the events of January 6 very closely, yet the call logs reflect no calls by him whatsoever. All of this raises a question of whether someone tampered with the call logs.¹⁷

While this gap of more than seven and one-half hours in the call logs has been the subject of much public speculation, some reporting has suggested that the January 6 phone logs simply “reflect[] Trump’s typical phone habits.”¹⁸ Those habits include President Trump’s use of cell phones to make or receive calls, particularly when he was in the Oval Office, which would bypass the White House switchboard.¹⁹ They also include what has been described as the “generally chaotic” recordkeeping practices of the Trump administration and President Trump’s efforts to evade having records of certain calls created in violation of the PRA.²⁰

The validity of these proffered explanations is open to question. Without knowing the identities of the Trump administration “officials” who provided these defenses to CNN,²¹ it is impossible to evaluate whether they are truly filling in missing information that explains the gaps in the call logs. Moreover, none of their explanations address the absence from the call logs of calls President Trump is known to have made, why the hours in the call log preceding and following the gap appear to be relatively complete, and the pagination, which ends with a call at 11:06 a.m. and appears to resume with a call at 6:54 p.m. at the top of another page.

The stakes for former President Trump could not be higher. In a ruling on the attorney-client and work-product privilege claims made by Trump’s former lawyer John Eastman for emails subpoenaed by the January 6th Committee, U.S. District Court Judge David O. Carter concluded the privileges were vitiated by the crime-fraud exception. Judge Carter found “it more likely than not that President Trump corruptly attempted to obstruct the Joint Session of Congress on January 6, 2021.”²² He further concluded “that President

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Blake, *Washington Post*, Mar. 31, 2022.

¹⁷ *Id.*

¹⁸ Zachary Cohen, Katelyn Polantz, Jamie Gangel, Ryan Nobles, Annie Grayer and Ashley Semler, Official review of Trump phone logs from January 6 finds record is complete, *CNN*, Apr. 1, 2022, <https://www.cnn.com/2022/03/31/politics/mystery-call-gap-trump-jan-6-white-house-phone-logs/index.html>. The headline of this news article is highly misleading as it suggests an official review of the phone logs was conducted and reached the conclusion that the phone logs provided to Congress were, in fact, complete. To the contrary, the article merely recounts what some unnamed sources told CNN about “Trump’s phone behavior and the White House switchboard records[.]” *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ Although CNN has reported that “[a]n official review of the call logs found no missing pages,” the network has provided no further details on who conducted that review and when. See Zachary Cohen, Jamie Gangel, Ryan Nobles, Annie Grayer and Paula Reid, Trump’s presidential diarist tells Jan. 6 committee White House officials provided less detail about his activities days before riot, *CNN*, Apr. 1, 2022, <https://www.cnn.com/2022/04/01/politics/white-house-diarist-january-6-committee-interview/index.html>. Moreover, Rep. Jamie B. Raskin, a member of the January 6th Committee, noted that that “the gaps are suspiciously tailored to the heart of the events” on January 6, suggesting the committee continues to question the reason for the missing gaps. Amy B. Wang, Gap in Trump call logs on Jan. 6 ‘suspiciously tailored,’ Raskin says, *Washington Post*, Apr. 3, 2022, <https://www.washingtonpost.com/politics/2022/04/03/jan-6-committee-raskin-trump-7-hour-gap/>.

²² *Eastman v. Thompson, et al.*, Case No. 22-00099-DOC-DFM (C.D. Ca. Mar. 28, 2022), Order re. Privilege of Documents Dated January 4-7 2021 at 36 (Dkt. No. 260).

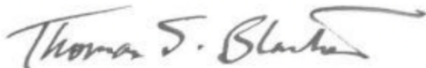
Trump and Dr. Eastman dishonestly conspired to obstruct the Joint Session of Congress on January 6, 2021.”²³ Judge Carter’s conclusions also suggest the need for further investigation to determine whether former President Trump attempted to shield his actions during the January 6th insurrection from being discovered by Congress and the public. Information contained in the missing call logs likely would help elucidate the former President’s full role in those events.

It is imperative that the Justice Department investigate the missing call log information to determine whether it resulted from efforts to obstruct both the congressional investigation and any criminal investigation the Department has undertaken or is contemplating related to the January 6th insurrection. The public must have confidence that all individuals—including former President Trump—will be thoroughly and fairly investigated and be held accountable if they engaged in criminal misconduct to attack the heart of our democracy. Accordingly, we request that you investigate whether former President Trump willfully destroyed and mutilated his presidential records, including White House call logs, while in office, in violation of federal criminal laws.

Sincerely,



Noah Bookbinder
President
Citizens for Responsibility and Ethics in
Washington



Thomas Blanton
Director
National Security Archive

²³ *Id.* at 40.