

From: GaryM Stern <garym.stern@nara.gov>
Sent time: 05/06/2021 03:16:01 PM
To: Patrick Philbin (b) (6) >; Mike Purpura (b) (6) >; Scott Gas (b) (6) >
Cc: Laster, John <john.laster@nara.gov>
Subject: Need for Assistance re Presidential Records

Pat, Mike, Scott:

As the EOP continues to transfer the electronic Trump Presidential records into our custody, we have come upon several problems that we need your help in resolving. We have already been working with Scott to address various issues with respect to capturing Presidential records on social media accounts; his assistance has been very helpful, although some problems remain that will likely require further follow up with you.

There are also now certain paper/textual records that we cannot account for. We therefore need your immediate assistance to ensure that NARA receives all Presidential records as required by the Presidential Records Act.

For example, the original correspondence between President Trump and North Korean Leader Kim Jong-un were not transferred to us; it is our understanding that in January 2021, just prior to the end of the Administration, the originals were put in a binder for the President, but were never returned to the Office of Records Management for transfer to NARA. It is essential that these original records be transferred to NARA as soon as possible.

Similarly, the letter that President Obama left for President Trump on his first day in office has not been transferred; since that letter was received by President Trump after his term commenced, it is a Presidential record – note that all of NARA's other Presidential Libraries maintain the original copy of similar letters, and it is necessary that this one be provided to us as well.

It is also our understanding that roughly two dozen boxes of original Presidential records were kept in the Residence of the White House over the course of President Trump's last year in office and have not been transferred to NARA, despite a determination by Pat Cipollone in the final days of the Administration that they need to be. I had also raised this concern with Scott during the final weeks.

We know things were very chaotic, as they always are in the course of a one-term transition. This is why the transfer of the Trump electronic records is still ongoing and won't be complete for several more months. But it is absolutely necessary that we obtain and account for all original Presidential records.

Please let us know as soon as you can how we can get these issues resolved.

Thanks,
Gary
(b) (6) (cell)

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From: Gary Stern <garym.stern@nara.gov>
Sent time: 02/24/2022 09:30:56 PM
To: Patrick Philbin (b) (6) >; Alex Cannon (b) (6) >; Justin Clark (b) (6) >
Cc: Laster, John <john.laster@nara.gov>
Subject: Fwd: Letter for The Honorable David S. Ferriero, Archivist of the United States, National Archives and Records Administration
Attachments: 2022-02-24.CBM to Ferriero-NARA re Document Request.pdf

Please see attached new special access request from the Chairwoman of the House Oversight and Reform Committee. We will keep you apprised when we are ready to notify of you of records responsive to this request.

Sincerely,
Gary

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Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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WASHINGTON, DC 20515-6143

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February 24, 2022

The Honorable David S. Ferriero
Archivist of the United States
National Archives and Records Administration
700 Pennsylvania Avenue, N.W.
Washington, D.C. 20408

Dear Mr. Ferriero:

The Oversight Committee is seeking additional documents about former President Donald Trump's removal of classified documents and presidential records from the White House, President Trump's attempt to destroy records by tearing them into pieces, and other presidential records from the Trump Administration that are missing. In response to a request from the Committee, the National Archives and Records Administration (NARA) provided new details of what appear to be the largest-scale violations of the Presidential Records Act since its enactment. I am deeply concerned that former President Trump may have violated the law through his intentional efforts to remove and destroy records that belong to the American people. This Committee plans to get to the bottom of what happened and assess whether further action is needed to prevent the destruction of additional presidential records and recover those records that are still missing.

On February 9, 2022, the Committee sought information related to the 15 boxes of presidential records recovered from the former president's Mar-a-Lago residence and recent reports that Mr. Trump attempted to destroy documents while serving as president.¹ On February 18, 2022, you sent two letters constituting a partial response and identifying significant potential violations of the Presidential Records Act and other federal laws governing the preservation of federal records, but you did not provide all the information the Committee requested.²

¹ Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, to David S. Ferriero, Archivist of the United States (Feb. 9, 2022) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2022-02-09.CBM%20to%20Ferriero-NARA%20re%20Trump%20Mar-a-Lago%20FINAL.pdf>).

² Letter from David S. Ferriero, Archivist of the United States, to Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform (Feb. 18, 2022) (responding in part to the Committee's February 9, 2022, letter) (online at www.archives.gov/files/foia/ferriero-response-to-02.09.2022-maloney-letter.02.18.2022.pdf); Letter from David S. Ferriero, Archivist of the United States, to Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform (Feb. 18, 2022) (describing the Trump Administration's failure to capture social media records) (online at www.archives.gov/files/foia/ferriero-letter-to-maloney-on-trump-presidential-records-on-social).

Your response confirmed that “NARA has identified items marked as classified national security information within the boxes” recovered at Mar-a-Lago, and that “NARA staff has been in communication with the Department of Justice” regarding this discovery. In response to the Committee’s request for an inventory of the contents of the 15 boxes, you stated the inventory should be completed by February 25 and that the Committee could request the inventory under Section 2205(2)(C) of the PRA.³

Your response also provided concerning new information about Mr. Trump’s destruction or attempted destruction of documents while serving as president. You stated that following press reports in 2018 that President Trump was tearing up records, NARA wrote to the Deputy Counsel for the President requesting information and that “[t]he White House Counsel’s Office indicated that they would address the matter.” However, you wrote that after this incident, “NARA learned that additional paper records that had been torn up by former President Trump were included in the records transferred to us.” You also wrote that White House staff had “taped together some of the torn-up records” but that “a number of other torn-up records that were transferred had not been reconstructed by the White House.”⁴

Your response also indicated that the Trump Administration failed to preserve other presidential records, and that NARA is continuing to search for missing records from the Trump Administration. You explained:

NARA has identified certain social media records that were not captured and preserved by the Trump Administration. NARA has also learned that some White House staff conducted official business using non-official electronic messaging accounts that were not copied or forwarded into their official electronic messaging accounts, as required by section 2209 of the PRA.⁵

On February 18, 2022, you also sent me a detailed description of the Trump Administration’s failure to capture and preserve presidential records on social media platforms. Among other information, your letter indicated that:

- The Trump Administration failed to adequately capture and preserve all tweets that the former president posted in the course of his official duties, including deleted tweets, despite being warned by NARA as far back as March 2017;
- The Trump Administration failed to preserve deleted content from the former president’s other social media accounts, and failed to preserve the former president’s Facebook, Instagram, and SnapChat accounts after he was suspended or banned from those platforms;

media-platforms.02.18.2022.pdf).

³ 44 U.S.C. § 2205(2)(C).

⁴ Letter from David S. Ferriero, Archivist of the United States, to Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform (Feb. 18, 2022) (responding in part to the Committee’s February 9, 2022, letter) (online at www.archives.gov/files/foia/ferriero-response-to-02.09.2022-maloney-letter.02.18.2022.pdf).

⁵ *Id.*

- The Trump Administration appears to have failed to preserve the former president's direct or private messages on social media accounts; and
- The Trump Administration failed to capture presidential records from the Twitter accounts of seven White House aides, including Ivanka Trump, Mark Meadows, Peter Navarro, and others.⁶

The information in your response suggests that former President Trump and his senior aides may have repeatedly violated the Presidential Records Act and other federal laws, which could severely impact the preservation of records from the Trump Administration. The Committee needs additional documents and information uniquely available from NARA to investigate the full extent of this conduct and determine what additional steps, including potential legislative reforms, may be needed to ensure the preservation of presidential records for the American people.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. The Committee has legislative jurisdiction over the Presidential Records Act and the Federal Records Act and has a long history of conducting oversight related to compliance with these laws.⁷

For all these reasons, pursuant to the Presidential Records Act,⁸ please provide by March 10, 2022:

1. A detailed description of the contents of the boxes recovered from Mar-a-Lago, including any inventory prepared by NARA of the contents of the boxes, and identification of any items that are classified and the level of classification including, if necessary, a classified index;

⁶ *Id.*

⁷ See, e.g., Committee on Oversight and Government Reform, *Press Release: Chaffetz, Cummings Urge Compliance with Federal Recordkeeping Laws* (Mar. 17, 2017) (online at <https://oversight.house.gov/news/press-releases/chaffetz-cummings-urge-compliance-with-federal-recordkeeping-laws>); Letter from Chairman Trey Gowdy and Ranking Member Elijah E. Cummings, Committee on Oversight and Government Reform, to Donald F. McGahn II, White House Counsel (Sept. 25, 2017) (online at <https://republicans-oversight.house.gov/wp-content/uploads/2017/09/2017-09-25-TG-EEC-to-McGahn-WH-Presidential-Records-Act-due-10-9.pdf>); Committee on Oversight and Reform, *Press Release: Committee Approves Subpoena to White House for Emails Sent on Personal Accounts in Violation of Federal Law* (July 25, 2019) (online at <https://oversight.house.gov/news/press-releases/committee-approves-subpoena-to-white-house-for-emails-sent-on-personal-accounts>); Committee on Oversight and Reform, *Press Release: Chairwoman Maloney Seeks Details from National Archives on the Trump Administration's Compliance with Presidential Records Act* (Dec. 21, 2020) (online at <https://oversight.house.gov/news/press-releases/chairwoman-maloney-seeks-details-from-national-archives-on-the-trump>); Committee on Oversight and Reform, *Hearing on Examining Preservation of State Department Federal Records*, 114th Cong. (Sept. 13 and Sept. 22, 2016) (H. Rept. 114-161) (online at www.govinfo.gov/content/pkg/CHRG-114hhrg26120/pdf/CHRG-114hhrg26120.pdf).

⁸ 44 U.S.C. § 2205(2)(C).

2. A detailed description of any reviews conducted by other federal agencies of the information in the recovered boxes since the boxes were obtained by NARA, including with respect to classified information; the findings from these reviews; and the anticipated completion date of any reviews that are ongoing;
3. All presidential records transferred to NARA that NARA learned former President Trump had torn up, destroyed, mutilated, or attempted to tear up, destroy, or mutilate;
4. Any written responses from Deputy Counsel to the President Stefan Passantino, or any other White House official to NARA's June 14, 2018, letter to the Trump Administration; and
5. All letters sent by NARA to the Trump Administration related to the Presidential Records Act not already provided to the Committee and any responses from the Trump Administration to those letters.

In addition, pursuant to the Presidential Records Act,⁹ the Committee requests that you produce by March 17, 2022, the following documents from the records of President Donald Trump's Executive Office of the President (EOP) in your possession, custody, or control:

1. Documents and communications received, prepared, or sent between January 20, 2017, and January 20, 2021, by employees or officials of EOP or any of its components, offices, or directorates, relating to the use of personal messaging accounts for official business;
2. Documents and communications received, prepared, or sent between January 20, 2017, and January 20, 2021, by employees or officials of EOP or any of its components, offices, or directorates, relating to the attempted or actual destruction, tearing up, taping together, relocation, or removal of any presidential records or materials;
3. Documents and communications received, prepared, or sent between January 20, 2017, and January 20, 2021, by employees or officials of EOP or any of its components, offices, or directorates, relating to communications with former President Trump about the Presidential Records Act or White House policies on recordkeeping;
4. Documents and communications received, prepared, or sent between January 20, 2017, and January 20, 2021, by employees or officials of EOP or any of its components, offices, or directorates, relating to White House employees or contractors finding paper in a toilet in the White House, including the White House residence;

⁹ 44 U.S.C. § 2205(2)(C).

5. Documents and communications received, prepared, or sent between January 20, 2017, and January 20, 2021, by employees or officials of EOP or any of its components, offices, or directorates, relating to missing records; and
6. Documents and communications received, prepared, or sent between January 20, 2020, and January 20, 2021, by employees or officials of EOP or any of its components, offices, or directorates, relating to determinations of whether to transfer records to NARA.

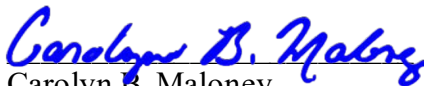
For requests 1 through 6, please prioritize producing records from the following custodians: Pat Cipollone; John Kelly; Nicholas Luna; Derek Lyons; Don McGahn; Mark Meadows; Stefan Passantino; Robert Porter; Reince Priebus; and Madeleine Westerhout.

7. Documents and communications received, prepared, or sent between January 20, 2017, and January 20, 2021, by employees or officials of EOP or any of its components, offices, or directorates, relating to the preservation or destruction of records from social media accounts, including direct messaging on social media accounts.

For request seven, please prioritize producing records from the following custodians: Andrew Giuliani, Chad Gilmartin, Ivanka Trump, Kayleigh McEnany, Kellyanne Conway, Mark Meadows, and Peter Navarro. Please also prioritize producing records related to methods of archiving social media accounts, including records related to the disconnection of the account @realDonaldTrump from ArchiveSocial.

An attachment to this letter provides additional instructions for responding to the Committee's request. Please contact Committee staff at (202) 225-5051 if you have any questions about this request.

Sincerely,


Carolyn B. Maloney
Chairwoman

Enclosure

cc: The Honorable James Comer, Ranking Member

Responding to Oversight Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic

message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.