



April 9, 2026

Edward Forst
Acting Archivist of the United States
National Archives and Records Administration
700 Pennsylvania Avenue NW
Washington, DC 20408

William P. Fischer
Acting Chief Records Officer
National Archives and Records Administration
8601 Adelphi Road, Room 2800
College Park, MD 20740
william.fischer@nara.gov

Re: NARA Compliance with the Presidential Records Act

Dear Messrs. Forst and Fischer:

I write on behalf of Citizens for Responsibility and Ethics in Washington (CREW) regarding the National Archives and Records Administration's (NARA) compliance with the Presidential Records Act (PRA) in light of the April 1, 2026 opinion of the Office of Legal Counsel (OLC) entitled *Constitutionality of the Presidential Records Act* (OLC Opinion).¹ The OLC Opinion purports to unilaterally invalidate the PRA in its entirety and immediately free, if not compel, NARA and its officers to violate the PRA's legal mandates.

As you are aware, the PRA "established the public ownership of records created by . . . presidents and their staffs in the course of discharging their official duties."² Accordingly the PRA, among other things, mandates preservation of Presidential records,³ imposes additional requirements on White House employee use of "non-official electronic messaging account[s],"⁴ limits the circumstances under which the President can destroy documents,⁵ and requires compliance with a multi-step process (including procuring the

¹ 50 Op. O.L.C. (April 1, 2026) (slip op. at 1), <https://www.justice.gov/olc/media/1434131/dl>.

² *CREW v. Trump*, 924 F.3d 602, 603 (D.C. Cir. 2019) (quoting H.R. Rep. No. 95-1487, 95th Cong. at 2 (1978)); see also *Presidential Records Act (PRA) of 1978*, Nat'l Archives and Records Admin. (July 23, 2011), <https://www.archives.gov/presidential-libraries/laws/1978-act.html>.

³ 44 U.S.C. §§ 2202, 2203(a).

⁴ *Id.* § 2209(a)(1)–(2).

⁵ *Id.* § 2203(c).

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written opinion of the Archivist and notifying Congress) before any such destruction.⁶

The PRA also obligates the Archivist to take various, particular steps to collect and maximize public access to Presidential records. Among them are legal mandates to the Archivist to take “responsibility for the custody, control, and preservation of, and access to” the former president’s records, “secure to the Government, as far as possible, the right to have continuous and permanent possession of the materials,” and make such records “available to the public as rapidly and completely as possible.”⁷ And the PRA provides the public with unambiguous statutory rights to Presidential records through the processes of the Freedom of Information Act,⁸ and provides Congress with an even more powerful right to access Presidential records when needed to conduct its business.⁹

The OLC Opinion nevertheless asserts that “the PRA is invalid in its entirety” and that “[t]he President need not further comply with its dictates” because, in OLC’s view, the PRA is “unconstitutional because it exceeds Congress’s enumerated and implied powers and aggrandizes the Legislative Branch at the expense of the constitutional independence and autonomy of the Executive.”¹⁰ Because the Department of Justice purports that OLC opinions are controlling on Executive Branch Officials, including those at NARA,¹¹ the OLC Opinion purports to require NARA and its officials to immediately violate the PRA so as not to negatively impact the “constitutional independence and autonomy of the Executive.”¹² This is so regardless of the fact that neither the White House, the President, nor NARA or its officers have mounted a legal challenge to the PRA and no federal court has heard, let alone adopted, the OLC Opinion’s entirely novel legal assertions.

The OLC Opinion and its potential adoption by NARA thus implicates paramount issues regarding the public’s right to know about the official acts of its highest elected representatives, the separation of powers, and even basic ownership of the records of conduct of the government. Please confirm in writing no later than April 15, 2026 whether NARA has adopted any or all portions of the OLC Opinion and whether NARA has adopted, or is planning to adopt, any change in its operations as a result of the OLC Opinion. Please direct any communications about this matter to me at jmaier@citizensforethics.org.

⁶ *Id.* § 2203(d).

⁷ *Id.* §§ 2203(g)(1); 2112(c)

⁸ *Id.* § 2204.

⁹ *Id.* § 2205(2)(A)–(C).

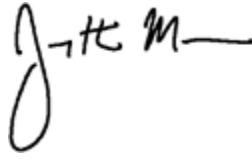
¹⁰ 50 Op. O.L.C. (slip op. at 1, 51–52).

¹¹ U.S. Dep’t of Just., Off. of Legal Couns., Memo. for Att’ys of the Off. (July 16, 2010), <https://www.justice.gov/olc/page/file/1511836/dl?inline>.

¹² 50 Op. O.L.C. (slip op. at 1).

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Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Maier". The signature is written in a cursive style with a large, looped initial "J" and a horizontal line at the end.

Jonathan Maier
Senior Litigation Counsel
Citizens for Responsibility and Ethics in Washington