

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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<https://oversight.house.gov>

December 21, 2020

The Honorable David S. Ferriero
Archivist of the United States
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740

Dear Mr. Ferriero:

I am writing with grave concerns that President Donald Trump and his senior aides may not be preserving records as required under the Presidential Records Act. As you know, the Presidential Records Act imposes legal obligations on the President and the White House to preserve and maintain presidential records.¹ It also requires the National Archives and Records Administration (NARA) to “assume responsibility for the custody, control, and preservation of, and access to the Presidential records of that President.”²

Under this law, President Trump may not dispose of any presidential records unless he first “obtains the views, in writing, of the Archivist concerning the proposed disposal of such Presidential records.”³ In addition, the law requires you to “request the advice” of the Committee on Oversight and Reform, as well other relevant committees, whenever you receive a request regarding the disposal of records from the President, if those records “may be of special interest to the Congress” or if “consultation with the Congress regarding the disposal” is in the public interest.⁴

Despite these requirements, the Committee currently has no visibility into what is happening at the White House in terms of archiving and transferring records to NARA. According to NARA, due to the coronavirus pandemic, NARA has not detailed any employees to the White House to assist or oversee this process, as it has in past transitions.

Press reports have indicated that President Trump and senior officials at the White House have not been fully compliant with the requirements imposed by the Presidential Records Act. One report described President Trump as having an “odd and enduring habit of ripping up papers

¹ See 44 U.S.C. §§ 2201-2209 (Chapter 22, Presidential Records).

² See 44 U.S.C. 2203(g).

³ See 44 U.S.C. 2203(c).

⁴ See 44 U.S.C. 2203(e).

when he's done with them," requiring career records officers to piece documents back together with tape.⁵

Given these reports, I am concerned that the outgoing Trump Administration may not be adequately preserving records and may be disposing of them without first obtaining your views, as required by law. I am also concerned that our existing laws may need review and revision to strengthen oversight and compliance. Accordingly, I request that you provide information sufficient to answer the following questions by Tuesday, January 5, 2021:

1. Has President Trump or any official in the Trump Administration written to seek your views regarding the disposal of presidential records under 44 U.S.C. 2203? If so, please describe each such instance, including a description of your response regarding any such request.
2. Has President Trump or any official in the Trump Administration disposed of any presidential records since January 20, 2017? If so, please provide details of the timing of the disposal, the reasons for the disposal, and the type and scope of records involved.
3. What efforts, if any, have you made to ensure that President Trump and White House officials are adequately preserving presidential records during the transition to the incoming Biden Administration?
4. What efforts, if any, have you made to determine whether President Trump and White House officials are disposing of presidential records without following the process required by 44 U.S.C. 2203?
5. If you learn that President Trump or senior White House officials have disposed of presidential records without following the process required by 44 U.S.C. 2203, what steps, if any, would you take to remedy the failure?

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, which also grants the Committee legislative jurisdiction over all matters related to "public information and records," including the Presidential Records Act.⁶

If you have any questions regarding this request, please contact Committee staff at (202) 225-5051.

⁵ *Meet the Guys Who Tape Trump's Papers Back Together*, Politico (June 10, 2018) (online at www.politico.com/story/2018/06/10/trump-papers-filing-system-635164).

⁶ See House rule X, clause 1(n)(10).

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Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Carolyn B. Maloney". The signature is written in a cursive style with a horizontal line underneath it.

Carolyn B. Maloney
Chairwoman

cc: The Honorable James R. Comer, Ranking Member
Committee on Oversight and Reform