



Sent via Email to foia@americanoversight.org

January 5, 2021

American Oversight
1030 15th Street NW, Suite B255
Washington, DC 20005

Re: Freedom of Information Act Request NGC21-084

Dear Mr. Evers:

This is in response to your Freedom of Information Act (FOIA) request, dated November 18, 2020, submitted via foia@nara.gov. As I stated in my previous correspondence, this office assigned your request the internal tracking number above, in addition to the *FOIAOnline* tracking number NARA-NGC-2021-000173. In your request you are seeking access to:

All records reflecting communications (including emails, email attachments, text messages, messages on messaging platforms (such as Slack, GChat or Google Hangouts, Lync, Skype, or WhatsApp), telephone call logs, calendar invitations, calendar entries, meeting notices, meeting agendas, informational material, talking points, any handwritten or electronic notes taken during any oral communications, summaries of any oral communications, or other materials) between (a) Archivist David Ferriero, Deputy Archivist Debra Steidel Wall, Chief of Staff Maria Carosa Stanwich, or General Counsel Gary Stern, and (b) the president or anyone who works at the White House, including but not limited to communications with email addresses ending in who.eop.gov.

Based on conversations our office had with Dan McGrath on November 20th, American Oversight agreed to limit this request to records related only to transition or destruction of documents for the dates requested.

Our search for records responsive to your request located 91 responsive documents. After completing our consultation, our office is releasing to you 30 documents that have been redacted in part pursuant to FOIA exemptions (b)(5) and (b)(6), 5 U.S.C. §§ 552(b)(5) and (b)(6). Specifically, 13 documents contain minimal redactions made pursuant to FOIA exemption

NATIONAL ARCHIVES *and*
RECORDS ADMINISTRATION

8601 ADELPHI ROAD
COLLEGE PARK, MD 20740-6001

www.archives.gov

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OVERSIGHT

(b)(6); and 17 documents contain redactions pursuant to FOIA exemptions (b)(5) and (b)(6). In addition, 61 documents have been withheld in full pursuant to FOIA exemptions (b)(5) and (b)(6). Exemption (b)(5) protects from disclosure information subject to applicable privileges, including the deliberative process privilege. Exemption (b)(6) protects the release of information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

If you are not satisfied with our action on this request, you have the right to file an administrative appeal within ninety (90) calendar days from the date of this letter via regular U.S. mail or email. By filing an appeal, you preserve your rights under FOIA and give the agency a chance to review and reconsider your request and the agency's decision. If you submit your appeal in writing, please address it to the Deputy Archivist of the United States (ND), National Archives and Records Administration, 8601 Adelphi Road, College Park, Maryland 20740. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." If you submit your appeal by e-mail please send it to FOIA@nara.gov, also addressed to the Deputy Archivist of the United States. Please be sure to explain why you believe this response does not meet the requirements of the FOIA. All correspondence should reference your case tracking number NGC21-084 and your FOIAonline tracking number.

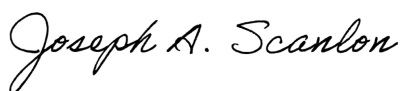
If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, you may contact our FOIA Public Liaison Gary M. Stern for assistance at:

National Archives and Records Administration
8601 Adelphi Road, Room 3110
College Park, MD 20740-6001
Tel: 301-837-1750
Email: garym.stern@nara.gov

If you are unable to resolve your FOIA dispute through our FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is noted below:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, MD 20740-6001
Email: ogis@nara.gov
Website: ogis.archives.gov
Tel: 202-741-5770 or 1-877-684-6448

Sincerely,



Joseph A. Scanlon

FOIA & Privacy Act Officer
Office of General Counsel
joseph.scanlon@nara.gov
301.837.0583 Office number

From: Mills, Dave C. EOP/OA (b) (6)
Sent time: 07/08/2020 12:48:25 PM
kenneth.morrison@nara.gov; garym.stern@nara.gov; kevin.liu@nara.gov; sheree.murphy@nara.gov; lee.halbert@nara.gov;
hannah.bergman@nara.gov; (b) (6)
(b) (6) King, Wendy P. EOP/OA (b) (6)
(b) (6) Droege, Philip C. EOP/WHO (b) (6); (b) (6)
(b) (6)
To:
(b) (6)
(b) (6)
(b) (6) Hamilton, Eric J. EOP/WHO (b) (6); (b) (6)
(b) (6) Barnes, Russ A. EOP/OA
(b) (6) Kate Dillon-McClure <kate.dillonmcclure@nara.gov>; John Laster <John.Laster@nara.gov> (b) (6)
Subject: RE: EOP/NARA Data Transfer Working Group bi-weekly meeting

Good afternoon,

(b) (5)

Please let me know if you have any questions.

Best Regards,
Dave

-----Original Appointment-----

From: Mills, Dave C. EOP/OA
Sent: Monday, June 15, 2020 8:28 AM
To: Mills, Dave C. EOP/OA; (b) (6)
(b) (6) Droege, Philip C. EOP/WHO; (b) (6)
(b) (6) Hamilton, Eric J. EOP/WHO; (b) (6)
(b) (6) Barnes, Russ A. EOP/OA; kenneth.morrison@nara.gov; garym.stern@nara.gov; Kate Dillon-McClure;
kevin.liu@nara.gov; sheree.murphy@nara.gov; lee.halbert@nara.gov; John Laster; (b) (6)
hannah.bergman@nara.gov
Subject: EOP/NARA Data Transfer Working Group bi-weekly meeting
When: Thursday, July 9, 2020 3:00 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: (b) (6)

Reset of the EOP/NARA Date Transfer Working Group meeting series, beginning Thursday, June 25, 2020.

(b) (6)
Trouble Joining? (b) (6)

Join by phone

(b) (6) (PITC) English (United States)

[Find a local number](#)

Conference ID: (b) (6)
[Forgot your dial-in PIN?](#) | [Help](#)

From: Hamilton, Eric J. EOP/WHO (b) (6)
Sent time: 07/09/2020 12:40:59 PM
To: GaryM Stern <garym.stern@nara.gov>

<https://www.archives.gov/federal-register/codification/forward.html>

Eric J. Hamilton

Associate Counsel to the President
Office of White House Counsel

O: (b) (6) | C: (b) (6)

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GaryM Stern <garym.stern@nara.gov>

(b) (5)

1 message

Droege, Philip C. EOP/WHO (b) (6)

Thu, Jul 16, 2020 at 10:07 AM

To: "Mills, Dave C. EOP/OA" (b) (6), GaryM Stern <garym.stern@nara.gov>, "John Laster
(John.Laster@nara.gov)" <John.Laster@nara.gov>, (b) (6) invite.ics
2K

From: Droege, Philip C. EOP/WHO (b) (6)
Sent time: 07/17/2020 11:28:12 AM
To: John Laster (John.Laster@nara.gov) <John.Laster@nara.gov>; Mills, Dave C. EOP/OA (b) (6); GaryM Stern
<garym.stern@nara.gov>; (b) (6) (b) (6)
Subject: (b) (5)

Updated. Let me know of any conflicts. Have a good weekend.

From: GaryM Stern <garym.stern@nara.gov> <garym.stern@nara.gov>

Sent time: 07/17/2020 10:47:24 AM

To: Droege, Philip C. EOP/WHO (b) (6)

Cc: John Laster (John.Laster@nara.gov) <John.Laster@nara.gov>; (b) (6) (b) (6)

Subject: Re: (b) (6)

That's fine by me. I'm variously open Monday - Thursday next week (off on Friday), with Wed. anytime after 11:30 probably best, but also, at least for now, Mon. 11-3; Tuesday, 10-1, 2-3, 4-5; and Thur. 10-11, 2-3, 4-5.

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
301-837-3026 (office)
301-837-0293 (fax)
garym.stern@nara.gov



On Fri, Jul 17, 2020 at 10:42 AM Droege, Philip C. EOP/WHO (b) (6) wrote:

Hi John and Gary – Dave has run into a conflict for today's meeting. OK to push off until next week as it is not too time sensitive.

Let me know if that works and if you have days/times that are preferable.

Sorry for the late notice.

Phil

From: Mills, Dave C. EOP/OA (b) (6)
Sent time: 07/19/2020 11:19:24 PM
kevin.liu@nara.gov; garym.stern@nara.gov; sheree.murphy@nara.gov; lee.halbert@nara.gov; hannah.bergman@nara.gov;
kenneth.morrison@nara.gov; (b) (6)
(b) (6) Kate Dillon-McClure <kate.dillonmcclure@nara.gov>; King, Wendy P. EOP/OA (b) (6)
(b) (6) Droege, Philip C. EOP/WHO (b) (6)
(b) (6)
To: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Hamilton, Eric J. EOP/WHO (b) (6); (b) (6)
(b) (6) Barnes, Russ A. EOP/OA
(b) (6) John Laster <John.Laster@nara.gov>; (b) (6)
Subject: Canceled: EOP/NARA Data Transfer Working Group bi-weekly meeting

Canceled because this meeting an leftover from one of our previous postponements. The next meeting will be held on Thursday, August 6, unless a meeting is requested between now and Aug. 6, This cancellation will keep on the current recurrence pattern.

Please let me know if you have any questions.

Best Regards,

Dave

reset of the EOP/NARA Date Transfer Working Group meeting series, beginning Thursday, June 25, 2020.

.....
[Help <>](#)
.....

From: GaryM Stern <garym.stern@nara.gov> <garym.stern@nara.gov>
Sent time: 07/27/2020 08:42:45 AM
To: Droege, Philip C. EOP/WHO (b) (6)
Cc: John Laster (John.Laster@nara.gov) <john.laster@nara.gov>; (b) (6)
Subject: Re: Meeting

Sorry for not responding. Not today, but tomorrow 2-4 or Wednesday 11:30-1 or 3-4 work for me.

Gary M. Stern
General Counsel
National Archives and Records Administration

On Mon, Jul 27, 2020, 7:17 AM Droege, Philip C. EOP/WHO (b) (6) wrote:

Hi John/Gary – checking on this. If you could get me info this morning that would be very helpful. Thanks.

From: Droege, Philip C. EOP/WHO
Sent: Thursday, July 23, 2020 4:27 PM
To: 'GaryM Stern' <garym.stern@nara.gov>; 'John Laster (John.Laster@nara.gov)' <John.Laster@nara.gov>
Cc: (b) (6)
Subject: FW: Meeting

Hi all – (b) (5) Let me know if these possible times work for you.

Thanks!

From: (b) (6)
Sent: Thursday, July 23, 2020 4:25 PM
To: Droege, Philip C. EOP/WHO (b) (6)
Cc: (b) (6)
Subject: Meeting

Hi Phil,

We are available:

7/27 Monday between 2pm and 4pm

7/28 Tuesday between 2pm and 5pm

7/29 Wednesday between 11am and 4pm

(b) (6), (b) (5)

Office (b) (6)

Mobile (b) (6)

--



GaryM Stern <garym.stern@nara.gov>

Gary/Eric connect

1 message

Hamilton, Eric J. EOP/WHO (b) (6)
To: GaryM Stern <garym.stern@nara.gov>

Mon, Aug 17, 2020 at 6:46 PM

 **invite.ics**
2K

From: Mills, Dave C. EOP/OA <david_c_mills@oa.eop.gov>
Sent time: 08/19/2020 04:53:02 PM
kenneth.morrison@nara.gov; kevin.liu@nara.gov; garym.stern@nara.gov; sheree.murphy@nara.gov;
lee.halbert@nara.gov; hannah.bergman@nara.gov; (b) (6)
King, Wendy
P. EOP/OA (b) (6)
Droege, Philip C. EOP/WHO (b) (6)
To:
Hamilton, Eric J. EOP/WHO
(b) (6)
Barnes, Russ A. EOP/OA (b) (6)
Kate Dillon-McClure <kate.dillonmcclure@nara.gov>; John Laster <John.Laster@nara.gov>; (b) (6)
(b) (6)
Subject: Canceled: EOP/NARA Data Transfer Working Group bi-weekly meeting

Good afternoon,
After discussions between the EOP and NARA, we have decided to merge the Thursday meetings into the weekly EOP/NARA technical at 1pm one Wednesdays. In this revised format, we will reserve time during the meeting (b) (5)
(b) (6) Also, if (b) (5) arises that require more immediate attention, we can schedule ad hoc meetings address those matters.
I will cancel this meeting and send out a revised invite for the Wednesday meeting series, which will include everyone in this meeting.
If you have any questions, please do not hesitate to contact John Laster at john.laster@nara.gov<mailto:john.laster@nara.gov> / (b) (6) or me at (b) (6)
Best Regards,
Dave
David C. Mills
Records Management Branch Chief
OCIO/WHIG
Office of Administration
Executive Office of the President
(b) (6)

This correspondence is recorded and archived in compliance with the Presidential Records Act.

Reset of the EOP/NARA Date Transfer Working Group meeting series, beginning Thursday, June 25, 2020.

Join (b) (6)
Trouble Joining? (b) (6)
Join by phone

(b) (6) English (United States)

Find a local number (b) (6)

Conference ID: (b) (6)

Forgot your dial-in PIN? <<https://ucweb.pitc.gov/dialin>>

Help <<https://o15.officeredir.microsoft.com/r/rliLync15?clid=1033&p1=5&p2=2009>>

[!OC([1033])!]

From: Mills, Dave C. EOP/OA (b) (6)
Sent time: 08/19/2020 05:04:45 PM
kevin.liu@nara.gov; garym.stern@nara.gov; sheree.murphy@nara.gov; lee.halbert@nara.gov; hannah.bergman@nara.gov;
kenneth.morrison@nara.gov; (b) (6)
(b) (6) Kate Dillon-McClure <kate.dillonmcclure@nara.gov>; King, Wendy P. EOP/OA (b) (6)
(b) (6) Droege, Philip C. EOP/WHO (b) (6);
(b) (6)
To: (b) (6)
(b) (6)
(b) (6) Hamilton, Eric J. EOP/WHO
(b) (6); (b) (6)
(b) (6) Barnes, Russ A. EOP/OA (b) (6) John Laster <John.Laster@nara.gov>; (b) (6)
Subject: EOP/NARA --(b) (5)

Meeting updated to merge the Thursday bi-weekly into this meeting. Going forward, we will reserve time during this meeting to address any (b) (5) Please forward to those who are not on this invite.

.....
[Help <>](#)
.....

From: GaryM Stern <garym.stern@nara.gov> <garym.stern@nara.gov>
Sent time: 09/11/2020 02:31:43 PM
To: Eric Hamilton (b) (6)
Subject: Returned Your Call

but, fyi, your mailbox is full, so I couldn't leave a message. Call back whenever you can.

Thanks,
Gary

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
301-837-3026 (office)
301-837-0293 (fax)
garym.stern@nara.gov

From: GaryM Stern <garym.stern@nara.gov> <garym.stern@nara.gov>
Sent time: 09/23/2020 10:53:06 AM
To: Eric Hamilton (b) (6)
Subject: Returned Your Call

But your mailbox is full, so I couldn't leave a message. Feel free to call me back at any time.

Thanks,
Gary

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
301-837-3026 (office)
301-837-0293 (fax)
garym.stern@nara.gov

From: Mills, Dave C. EOP/OA (b) (6)
Sent time: 09/30/2020 11:55:39 AM
lee.halbert@nara.gov; kevin.liu@nara.gov; garym.stern@nara.gov; sheree.murphy@nara.gov; hannah.bergman@nara.gov; kenneth.morrison@nara.gov; (b) (6)
(b) (6) King, Wendy P. EOP/OA (b) (6); (b) (6)
(b) (6) Droege, Philip C. EOP/WHO (b) (6)
(b) (6)
To: (b) (6)
(b) (6) Hamilton, Eric J. EOP/WHO
(b) (6)
(b) (6) Barnes, Russ A. EOP/OA (b) (6)
(b) (6) Kate Dillon-McClure <kate.dillonmcclure@nara.gov>; John Laster <John.Laster@nara.gov>; (b) (6)
Cc: (b) (6)
Subject: RE: (b) (5)

Good morning,

Because of scheduling conflicts and the unavailability of some members of the meeting group, we are postponing today's meeting to tomorrow, Thursday, Oct. 1. After consulting with John Laster regarding NARA availability and reviewing EOP calendars, it appears that 4pm is the best time slot for nearly everyone. I will send out a revised invite shortly.

Best Regards,
Dave

-----Original Appointment-----

From: Mills, Dave C. EOP/OA
Sent: Monday, May 11, 2020 1:47 PM
To: Mills, Dave C. EOP/OA; (b) (6) King, Wendy P. EOP/OA; (b) (6)
(b) (6) Droege, Philip C. EOP/WHO; (b) (6)
(b) (6) Hamilton, Eric J. EOP/WHO; (b) (6); Barnes, Russ A. EOP/OA;
lee.halbert@nara.gov; (b) (6) Kate Dillon-McClure; kevin.liu@nara.gov; garym.stern@nara.gov;
sheree.murphy@nara.gov; John Laster; (b) (6) hannah.bergman@nara.gov; kenneth.morrison@nara.gov
Cc: (b) (6) jacqueline.anhut@nara.gov
Subject: (b) (5)
When: Wednesday, September 30, 2020 1:00 PM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: (b) (6)

Meeting updated to merge the Thursday bi-weekly into this meeting. Going forward, we will reserve time during this meeting to address any (b) (5). Please forward to those who are not on this invite.

(b) (6)
Trouble Joining? (b) (6)

Join by phone

(b) (6) (PITC) English (United States)
(b) (6)

Conference ID: (b) (6)

[Forgot your dial-in PIN?](#) | [Help](#)



GaryM Stern <garym.stern@nara.gov>

Gary/Eric connect

1 message

Hamilton, Eric J. EOP/WHO (b) (6)
To: Gary Stern <garym.stern@nara.gov>

Thu, Oct 1, 2020 at 8:22 AM

invite.ics
2K

From: Droege, Philip C. EOP/WHO (b) (6)
Sent time: 10/08/2020 06:21:39 PM
To: John Laster <John.Laster@nara.gov>
Cc: GaryM Stern <garym.stern@nara.gov>
Subject: Re: (b) (5)

I'm not sure how my afternoon is going to go. How about I talk to Gary at 10 and if need be we reconvene.

(b) (5)

On Oct 8, 2020, at 5:02 PM, John Laster <John.Laster@nara.gov> wrote:

I'm tied up until noon tomorrow. I'm available anytime after.

On Thu, Oct 8, 2020, 4:31 PM Droege, Philip C. EOP/WHO (b) (6) wrote:

That works. thx

From: GaryM Stern <garym.stern@nara.gov>
Sent: Thursday, October 8, 2020 4:30 PM
To: Droege, Philip C. EOP/WHO (b) (6)
Cc: John Laster (John.Laster@nara.gov) <John.Laster@nara.gov>
Subject: Re: (b) (5)

Phil, I can talk tomorrow, say at 10:00?

Gary M. Stern
General Counsel
National Archives and Records Administration

On Thu, Oct 8, 2020, 3:37 PM Droege, Philip C. EOP/WHO (b) (6) wrote:

Hi Gary/John – do one or both of you have a second (b) (5)

I can be reached at (b) (6)

From: GaryM Stern <garym.stern@nara.gov> <garym.stern@nara.gov>
Sent time: 10/08/2020 06:23:53 PM
To: John Laster <john.laster@nara.gov>
Cc: Droege, Philip C. EOP/WHO (b) (6)
Subject: Re: (b) (5)

I could do 3:30 or after.

Gary M. Stern
General Counsel
National Archives and Records Administration

On Thu, Oct 8, 2020, 5:02 PM John Laster <john.laster@nara.gov> wrote:
I'm tied up until noon tomorrow. I'm available anytime after.

On Thu, Oct 8, 2020, 4:31 PM Droege, Philip C. EOP/WHO (b) (6) wrote:

That works. thx

From: GaryM Stern <garym.stern@nara.gov>
Sent: Thursday, October 8, 2020 4:30 PM
To: Droege, Philip C. EOP/WHO (b) (6)
Cc: John Laster (John.Laster@nara.gov) <John.Laster@nara.gov>
Subject: Re: (b) (5)

Phil, I can talk tomorrow, say at 10:00?

Gary M. Stern
General Counsel
National Archives and Records Administration

On Thu, Oct 8, 2020, 3:37 PM Droege, Philip C. EOP/WHO (b) (6) wrote:

Hi Gary/John – do one or both of you have a second (b) (5)

I can be reached at (b) (6)

From: Droege, Philip C. EOP/WHO (b) (6)
Sent time: 10/09/2020 10:01:20 AM
To: GaryM Stern <garym.stern@nara.gov>
Subject: call

Just tried to call you. When you get a chance give me a buzz (b) (6)

From: King, Wendy P. EOP/OA (b) (6)
Sent time: 10/19/2020 05:39:47 PM
To: GaryM Stern <garym.stern@nara.gov>
Subject: RE: (b) (5)

Thank you!

From: GaryM Stern <garym.stern@nara.gov>
Sent: Monday, October 19, 2020 4:01 PM
To: King, Wendy P. EOP/OA (b) (6)
Subject: (b) (5)

Wendy, (b) (5).

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
301-837-3026 (office)
301-837-0293 (fax)
garym.stern@nara.gov

|

| | | | |



GaryM Stern <garym.stern@nara.gov>

Re: (b) (5)

1 message

GaryM Stern <garym.stern@nara.gov>

Tue, Oct 20, 2020 at 4:49 PM

To: "King, Wendy P. EOP/OA" (b) (6)

Yes

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
301-837-3026 (office)
301-837-0293 (fax)
garym.stern@nara.gov



On Tue, Oct 20, 2020 at 4:45 PM King, Wendy P. EOP/OA <(b) (6)> wrote:

(b) (5)

Thanks,

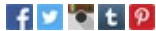
Wendy

From: GaryM Stern <garym.stern@nara.gov> <garym.stern@nara.gov>
Sent time: 10/22/2020 10:52:56 AM
To: Gast, Scott F. EOP/WHO (b) (6); Eric Hamilton (b) (6); Purpura, Michael M. EOP/WHO (b) (6)
Cc: Laster, John <john.laster@nara.gov>
Subject: CREW Letter re Navarro Twitter Account
Attachments: PRA Letter re Peter Navarro - 2020.10.16 (2).pdf

We both received the attached letter from CREW last week, alleging that Peter Navarro may have changed his official Twitter account and raising the concern that official tweets are no longer being captured and managed as Presidential records. (b) (5)

Thanks,
Gary

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
301-837-3026 (office)
301-837-0293 (fax)
garym.stern@nara.gov



October 16, 2020

Pat Cipollone
White House Counsel
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

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

Re: Potential Violations of the Presidential Records Act by Peter Navarro

Dear Messrs. Cipollone and Ferriero:

Citizens for Responsibility and Ethics in Washington (“CREW”) writes to notify you of recent activity by Peter Navarro concerning a Twitter account he used for official purposes in his capacity as Director of the White House Office of Trade and Manufacturing Policy (“OTMP”). The same day CREW filed a Hatch Act complaint against Mr. Navarro based in part on his politically-charged tweets, Mr. Navarro apparently deactivated his Twitter account. He then launched a new account under different username, which, unlike his prior account, makes no reference to his White House role, and includes no disclaimer that tweets will be archived pursuant to the Presidential Records Act (“PRA”). Mr. Navarro continues, however, to tweet from this new account about matters relating to his official duties, just as he did from his old account. Because Mr. Navarro’s actions may violate the PRA, we urge you to investigate this matter, ensure preservation of all Presidential records from his Twitter accounts, and take any appropriate disciplinary action against him in accordance with the PRA.

Factual Background

By Executive Order issued April 29, 2017, President Trump established the OTMP within the White House Office.¹ The OTMP is responsible for advising “the President on innovative strategies and promot[ing] trade policies consistent with the President’s stated goals,” serving “as a liaison between the White House and the Department of Commerce and undertak[ing] trade-related special projects as requested by the President,” and helping to “improve the performance of the executive branch’s domestic procurement and hiring policies, including through the implementation of the policies described in Executive Order

¹ Exec. Order No. 13,797, 82 Fed. Reg. 20,821 (Apr. 29, 2017).

13788 of April 18, 2017 (Buy American and Hire American).”² Peter Navarro was appointed as the OTMP’s first Director, a position he continues to hold.³ Mr. Navarro’s full title is “Assistant to the President and Director of the Office of Trade and Manufacturing Policy.”⁴

In March 2020, Mr. Navarro began using a Twitter account with the username “@PeterNavarro45” for official government purposes.⁵ He used the account primarily to promote the Trump Administration’s trade and manufacturing policy as part of his duties as OTMP Director.⁶ He also used the account to attack President Trump’s political rivals and support his reelection (the latter of which is the subject of a Hatch Act complaint recently filed by CREW).⁷

Until late September 2020, Mr. Navarro’s Twitter account profile included his official White House portrait, listed his official title, provided a link to the White House website, and included the disclaimer that “Tweets may be archived: <http://wh.gov/privacy>.”⁸



² *Id.*

³ The White House, Peter Navarro, Assistant to the President and Director of the Office of Trade and Manufacturing Policy, <https://www.whitehouse.gov/people/peter-navarro/>.

⁴ *Id.*

⁵ Peter Navarro (@PeterNavarro45), Twitter (as captured on Sept. 23, 2020), <http://web.archive.org/web/20200923022503/https://twitter.com/PeterNavarro45>.

⁶ *See id.*

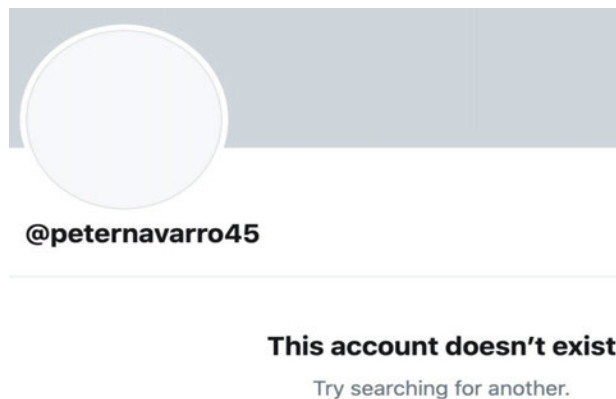
⁷ *See, e.g.*, CREW, Navarro Should be Terminated for Hatch Act Violations, Oct. 5, 2020, <https://www.citizensforethics.org/press-release/crew-complaint-navarro-should-be-terminated-for-hatch-act-violations/>.

⁸ Peter Navarro (@PeterNavarro45), Twitter (as captured on Sept. 23, 2020).

As of September 26, however, Mr. Navarro conspicuously removed the disclaimer about the potential archiving of tweets.⁹



Then, on October 5—the same day CREW filed a Hatch Act complaint against Mr. Navarro based in part on his politically-charged tweets—he apparently deactivated his @PeterNavarro45 account, rendering his prior tweets inaccessible on Twitter.¹⁰



⁹ Peter Navarro (@PeterNavarro45), Twitter (as captured on Sept. 26, 2020), <http://web.archive.org/web/20200926220746/https://twitter.com/PeterNavarro45>.

¹⁰ Lachlan Markay (@lachlan), Twitter (Oct. 5, 2020), <https://twitter.com/lachlan/status/1313177789458198528> (“Peter Navarro’s twitter account (@peternavarro45) appears to have been deleted.”); Sylvan Lane, [Watchdog group says top Trump trade adviser should be fired for Hatch Act violations](https://thehill.com/policy/finance/519720-watchdog-group-says-top-trump-trade-adviser-should-be-fired-for-hatch-act), *The Hill*, Oct. 5, 2020, <https://thehill.com/policy/finance/519720-watchdog-group-says-top-trump-trade-adviser-should-be-fired-for-hatch-act> (“The original account appeared to be deleted Monday . . . making Navarro’s alleged previous tweets inaccessible.”).

One journalist noted that looking up the @PeterNavarro45 account's "unique [Twitter] ID number confirms that it was deleted, not changed to a different handle."¹¹

As of October 7, Mr. Navarro was back on Twitter with a new username, "@RealPNavarro."¹²



Peter Navarro

@RealPNavarro

Author, Death By China

📍 Washington, DC 🔗 peternavarro.com

Unlike the former @PeterNavarro45 account, the @RealPNavarro account includes no reference to Mr. Navarro's official title, no link to the White House webpage, and no disclaimer about potential archiving of tweets.¹³ The @RealPNavarro account appears to include the tweets previously made from the @PeterNavarro45 account, but it is unclear whether all prior tweets and communications were carried over to the new account. The two accounts also appear to have roughly the same number of followers (between 45,000-47,500). Despite the changed username and account profile description, Mr. Navarro continues to use the @RealPNavarro account in the same way as the @PeterNavarro45 account—*i.e.*, to promote the Trump Administration's trade and manufacturing policy, and to attack the president's political opponents.

¹¹ Lachlan Markay (@lachlan), Twitter (Oct. 5, 2020), <https://twitter.com/lachlan/status/1313179725175705603>.

¹² See Peter Navarro (@RealPNavarro), Twitter, <https://twitter.com/RealPNavarro>.

¹³ Compare *id.*, with Peter Navarro (@PeterNavarro45), Twitter (as captured on Sept. 23, 2020).

The Presidential Records Act

The PRA “‘establish[es] the public ownership of records created by . . . presidents and their staffs in the course of discharging their official duties.’”¹⁴ The statute broadly defines “Presidential records” to include “documentary materials, or any reasonably segregable portion thereof, created or received by the President, the President’s immediate staff, or a unit or individual of the Executive Office of the President whose function is to advise or assist the President, in the course of conducting activities which relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President.”¹⁵ Such records “can be in any media, including textual, audiovisual, and electronic.”¹⁶

The PRA restricts the disposal of Presidential records. It provides that the “President may dispose of . . . Presidential records . . . that no longer have administrative, historical, informational, or evidentiary value” only if two conditions are met: “(1) the President obtains the views, in writing, of the Archivist concerning the proposed disposal of such Presidential records; and (2) the Archivist states that the Archivist does not intend to take any action under subsection (e) of this section [regarding consultation with Congress about disposal decisions].”¹⁷ As the D.C. Circuit Court of Appeals has recognized, “[d]isposal decisions matter because [P]residential records—if not previously discarded, that is—become available for public release several years after a president leaves office.”¹⁸

The PRA also restricts White House employees’ use of “non-official electronic message account[s]” to create or send Presidential records.¹⁹ Specifically, the statute prohibits covered White House employees from “creat[ing] or send[ing] a Presidential . . . record . . . using a non-official electronic message account unless” the employee either “copies an official electronic messaging account . . . in the original creation or transmission of the Presidential record,” or “forwards a complete copy of the Presidential . . . record to an official electronic messaging account . . . not later than 20 days after the original creation or transmission of the Presidential . . . record.”²⁰ The statute broadly defines “electronic messaging account” to mean “any account that sends electronic messages.”²¹ An “intentional violation” of this requirement, “as determined by the appropriate supervisor, shall be a basis for disciplinary action in accordance with subchapter I, II, or V of chapter 75 of title 5, as the

¹⁴ *CREW v. Trump*, 924 F.3d 602, 603 (D.C. Cir. 2019) (quoting H.R. Rep. No. 95-1487, 95th Cong. at 2 (1978)).

¹⁵ 44 U.S.C. § 2201(2).

¹⁶ NARA, *Guidance on Presidential Records*, <https://www.archives.gov/files/presidential-records-guidance.pdf>.

¹⁷ 44 U.S.C. § 2203(c); *see also* NARA, *Guidance on Presidential Records*, at 6 (“The Archivist must provide his views in writing before the President and Vice President may dispose of any incumbent Presidential records.”).

¹⁸ *CREW*, 924 F.3d at 604 (citing 44 U.S.C. § 2204(b)(2)).

¹⁹ 44 U.S.C. § 2209.

²⁰ *Id.* § 2209(a).

²¹ *Id.* § 2209(c)(3).

case may be,”²² and may include removal, suspension, reduction in grade or pay, or furlough.²³

On February 22, 2017, the White House Counsel issued a memorandum to “remind all [White House] personnel of their obligation to preserve and maintain [P]residential records, as required by the Presidential Records Act.”²⁴ The memo confirms that Presidential records include “electronic communications that are created or received in the course of conducting activities related to the performance of the President’s duties,” even when “sent from or received on non-official accounts.”²⁵ It adds that “[P]residential records are the property of the United States. You may not dispose of [P]residential records. . . . The willful destruction or concealment of federal records is a federal crime punishable by fines and imprisonment.”²⁶

White House policy further provides that “for the sole purpose of complying with the Presidential Records Act, the White House archives *some* information that users submit or publish when engaging with the White House through official White House pages or accounts on third-party websites.”²⁷ The policy states that “on Twitter, the White House automatically archives ‘tweets’ from official White House accounts, and may capture ‘mentions’ (tweets from other users to official White House accounts).”²⁸

Potential PRA Violations Relating to Navarro’s Twitter Accounts

Mr. Navarro’s recent actions relating to his Twitter accounts may violate the PRA and, at a minimum, appear to be designed to evade the PRA’s preservation requirements. As a threshold matter, tweets, direct messages, and other communications from any of Mr. Navarro’s Twitter accounts—including both the former @PeterNavarro45 account and the new @RealPNavarro account—qualify as Presidential records insofar as they relate to Mr. Navarro’s duties as Assistant to the President and Director of the OTMP, a component of the White House Office.²⁹ It is immaterial whether Mr. Navarro labels his Twitter account as official (as with the @PeterNavarro45 account) or personal (as with the @RealPNavarro account), because, as noted, the PRA extends to Presidential records created or sent from “non-official” accounts. What matters is the content of Mr. Navarro’s communications and their nexus to his White House position, not how he labels his account.

²² *Id.* § 2209(b).

²³ *See* 5 U.S.C. §§ 7501-7504, §§ 7511-7515, §§ 7541-7543.

²⁴ White House Memorandum, Presidential Records Act Obligations, Feb. 22, 2017, [https://www.archives.gov/files/foia/Memo%20to%20WH%20Staff%20Re%20Presidential%20Records%20Act%20\(Trump,%202002-22-17\)%20redacted%20\(1\).pdf](https://www.archives.gov/files/foia/Memo%20to%20WH%20Staff%20Re%20Presidential%20Records%20Act%20(Trump,%202002-22-17)%20redacted%20(1).pdf)

²⁵ *Id.* at 2.

²⁶ *Id.* at 3; *see also* 18 U.S.C. § 2071.

²⁷ The White House, *Privacy Policy*, <https://www.whitehouse.gov/privacy-policy/> (emphasis added).

²⁸ *Id.*

²⁹ *See* NARA, *Guidance on Presidential Records*, at 5 (listing “The White House Office” among the “components of the Executive Office of the President that create Presidential records”).

As the above chronology shows, Mr. Navarro treated his @PeterNavarro45 account as an official White House account for several months, and explicitly acknowledged that the account was subject to White House archiving pursuant to the PRA. He then conspicuously deleted the archiving disclaimer, and thereafter deactivated the account, seemingly without advance notice to NARA regarding any disposal of Presidential records. Days later, he opened a new, nominally personal account under the username @RealPNavarro, which he uses in the same way as his old, official account. There is no assurance that all Presidential records from the @PeterNavarro45 account were appropriately preserved before it was deactivated. Nor is there any indication that the White House is archiving Presidential records from the new @RealPNavarro account. And insofar as Mr. Navarro is using the “non-official” @RealPNavarro account to create or send Presidential records without taking steps to ensure those records are properly archived, he is in violation of the PRA and potentially subject to disciplinary action.³⁰

Mr. Navarro’s actions also highlight apparent gaps in the White House’s PRA archiving policy.³¹ As noted, White House policy states that for purposes of complying with the PRA, the White House archives “some” information from third-party websites, but it fails to specify the criteria the White House uses to determine what information to archive. The policy also says the White House automatically archives tweets from “official White House accounts,” but, again, does not specify what qualifies as an “official White House account,” so there is no assurance that even the @PeterNavarro45 account was subject to automatic archiving under White House policy (and the non-official @RealPNavarro account is plainly not subject to such archiving, underscoring the need for Mr. Navarro himself to ensure PRA compliance with respect to records from that account). Moreover, the policy is underinclusive since it only requires archiving of “tweets” and “mentions,” not direct messages and other non-public communications stored in Twitter accounts that may also qualify as Presidential records.

These issues, unfortunately, are symptomatic of a broader pattern of PRA violations at the highest levels of the White House. From President Trump’s reported “habit of ripping up documents after he’s done with them,”³² to Jared Kushner’s routine use of “WhatsApp to communicate with foreign leaders and conduct government business,”³³ this White House has long skirted the PRA’s critical records-preservation requirements. We urge you to break from this trend by taking prompt and appropriate action to address Mr. Navarro’s conduct.

³⁰ See 44 U.S.C. § 2209; White House Memorandum, Presidential Records Act Obligations, Feb. 22, 2017.

³¹ See The White House, Privacy Policy, <https://www.whitehouse.gov/privacy-policy/>.

³² Alana Abramson, *Richard Nixon Is the Reason President Trump’s Aides Have to Repair Documents He Rips Up*, *Time*, June 11, 2018, <https://time.com/5308542/trump-presidential-records-nixon/>.

³³ Kevin Collier, *Jared Kushner’s use of WhatsApp raises concerns among cybersecurity experts*, *CNN*, Mar. 23, 2019, <https://www.cnn.com/2019/03/23/politics/kushner-whatsapp-concerns/index.html>.

Pat Cipollone
David S. Ferriero
October 16, 2020
Page 8

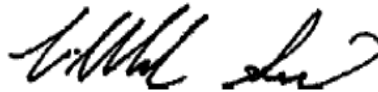
Conclusion

The “PRA changed the legal ownership of the official records of the President from private to public.”³⁴ To ensure that Presidential records rightfully belonging to the public are preserved, we respectfully request that you investigate Peter Navarro’s recent activity concerning his Twitter accounts, ensure preservation of all Presidential records from those accounts, and take any appropriate disciplinary action against Mr. Navarro in accordance with the PRA.

Sincerely,



Noah Bookbinder
Executive Director



Nikhel Sus
Senior Counsel

³⁴ NARA, Guidance on Presidential Records, at 5.

From: Mills, Dave C. EOP/OA (b) (6)

Sent time: 11/09/2020 09:37:38 AM

kevin.liu@nara.gov; garym.stern@nara.gov; sheree.murphy@nara.gov; lee.halbert@nara.gov; hannah.bergman@nara.gov;

kenneth.morrison@nara.gov; (b) (6)

(b) (6) Kate Dillon-McClure <kate.dillonmcclure@nara.gov>; King, Wendy P. EOP/OA (b) (6)

(b) (6); Droege, Philip C. EOP/WHO (b) (6)

(b) (6)

To:

(b) (6)
(b) (6)
(b) (6) Hamilton, Eric J. EOP/WHO

(b) (6)

(b) (6) Barnes, Russ A. EOP/OA (b) (6) John Laster <John.Laster@nara.gov>; (b) (6)

(b) (6) Andrea

Shahmohammadi <andrea.shahmohammadi@nara.gov>

Cc: (b) (6)

Subject: EOP/NARA --(b) (5)

Meeting updated to merge the Thursday bi-weekly into this meeting. Going forward, we will reserve time during this meeting to address any (b) (5). Please forward to those who are not on this invite.

.....
[Help <>](#)
.....

From: Hamilton, Eric J. EOP/WHO (b) (6)
Sent time: 11/09/2020 08:59:18 AM
To: GaryM Stern <garym.stern@nara.gov>
Subject: RE: Call

Hi Gary. Just tried calling you back. I should be around most of the rest of the morning if you want to try me again.

Eric J. Hamilton

Associate Counsel to the President
Office of White House Counsel

O: (b) (6) | C: (b) (6)

From: GaryM Stern <garym.stern@nara.gov>
Sent: Monday, November 9, 2020 8:57 AM
To: Hamilton, Eric J. EOP/WHO (b) (6)
Subject: Call

I tried calling you for an update and check-in. Call back when you can.

Thanks,
Gary

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
301-837-3026 (office)
301-837-0293 (fax)
garym.stern@nara.gov

[Redacted]

[Redacted]

From: Barnes, Russ A. EOP/OA (b) (6)
Sent time: 11/12/2020 06:09:35 PM
garym.stern@nara.gov; john.laster@nara.gov; hannah.bergman@nara.gov; kate.dillonmcclure@nara.gov; kevin.liu@nara.gov;
kenneth.morrison@nara.gov; (b) (6) Hamilton, Eric J. EOP/WHO (b) (6); Droege, Philip C.
To: EOP/WHO (b) (6); (b) (6)
(b) (6) Mills, Dave C. EOP/OA
(b) (6)
King, Wendy P. EOP/OA (b) (6)
Subject: EOP/NARA Data Transfer Weekly

EOP/NARA Data Transfer Weekly (agenda sent weekly)

.....

[Help <>](#)

.....



GaryM Stern <garym.stern@nara.gov>

Check In

1 message

GaryM Stern <garym.stern@nara.gov>

Fri, Nov 13, 2020 at 2:35 PM

To: "Gast, Scott F. EOP/WHO" (b) (6)

(b) (5)

you, or feel free to call me anytime on my cell at (b) (6)

Please let me know the best number to reach

Thanks so much,
Gary

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
301-837-3026 (office)
301-837-0293 (fax)
garym.stern@nara.gov



From: Mills, Dave C. EOP/OA (b) (6)
Sent time: 11/15/2020 04:52:24 PM
kevin.liu@nara.gov; garym.stern@nara.gov; sheree.murphy@nara.gov; lee.halbert@nara.gov; hannah.bergman@nara.gov;
kenneth.morrison@nara.gov; (b) (6)
(b) (6) Kate Dillon-McClure <kate.dillonmcclure@nara.gov>; King, Wendy P. EOP/OA (b) (6)
(b) (6) Droege, Philip C. EOP/WHO (b) (6)
(b) (6)
To: (b) (6)
(b) (6)
(b) (6) Hamilton, Eric J. EOP/WHO
(b) (6)
(b) (6) Barnes, Russ A. EOP/OA (b) (6) John Laster <John.Laster@nara.gov> (b) (6)
(b) (6) Andrea
Shahmohammadi <andrea.shahmohammadi@nara.gov>
Cc: (b) (6)
Subject: Canceled: EOP/NARA -- (b) (5)

Meeting series cancelled per Russ Barnes direction.

Meeting updated to merge the Thursday bi-weekly into this meeting. Going forward, we will reserve time during this meeting to address any (b) (5). Please forward to those who are not on this invite.

.....

[Help <>](#)

.....

From: Mills, Dave C. EOP/OA (b) (6)
Sent time: 11/15/2020 04:52:26 PM
hannah.bergman@nara.gov; kevin.liu@nara.gov; garym.stern@nara.gov; sheree.murphy@nara.gov; lee.halbert@nara.gov;
kenneth.morrison@nara.gov; (b) (6)
(b) (6) King, Wendy P. EOP/OA (b) (6); (b) (6)
(b) (6) Droege, Philip C. EOP/WHO (b) (6) (b) (6)
(b) (6)
To: (b) (6)
(b) (6)
(b) (6) Hamilton, Eric J. EOP/WHO
(b) (6)
(b) (6) Barnes, Russ A. EOP/OA (b) (6)
(b) (6); Kate Dillon-McClure <kate.dillonmcclure@nara.gov>; John Laster <John.Laster@nara.gov>; (b) (6)
(b) (6) Andrea Shahmohammadi <andrea.shahmohammadi@nara.gov>
Cc: (b) (6)
Subject: Canceled: EOP/NARA --(b) (6)

Meeting series cancelled per Russ Barnes direction.

Meeting updated to merge the Thursday bi-weekly into this meeting. Going forward, we will reserve time during this meeting to address any (b) (5). Please forward to those who are not on this invite.

.....

[Help <>](#)

.....

From: Barnes, Russ A. EOP/OA (b) (6)
Sent time: 11/19/2020 07:33:46 PM
garym.stern@nara.gov; john.laster@nara.gov; hannah.bergman@nara.gov; kate.dillonmcclure@nara.gov; kevin.liu@nara.gov;
kenneth.morrison@nara.gov; (b) (6); lisa.mahoney@nara.gov; christopher.perry@nara.gov; alexander.josephs@nara.gov;
lee.halbert@nara.gov; Hamilton, Eric J. EOP/WHO (b) (6); Droege, Philip C. EOP/WHO
To: (b) (6)
(b) (6) Mills, Dave C. EOP/OA
(b) (6)
(b) (6) King, Wendy P. EOP/OA (b) (6)
Subject: EOP/NARA Data Transfer Weekly

EOP/NARA Data Transfer Weekly (agenda sent weekly)

.....
[Help <>](#)
.....

From: GaryM Stern <garym.stern@nara.gov> <garym.stern@nara.gov>
Sent time: 11/19/2020 12:26:26 PM
To: Hamilton, Eric J. EOP/WHO (b) (6)
Subject: Re: Call

Yes, will call soon.

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
301-837-3026 (office)
301-837-0293 (fax)
garym.stern@nara.gov



On Thu, Nov 19, 2020 at 12:24 PM Hamilton, Eric J. EOP/WHO (b) (6) wrote:

Hi Gary – Can we talk early afternoon today?

Eric J. Hamilton

Associate Counsel to the President

Office of White House Counsel

O: (b) (6) | C: (b) (6)

**GaryM Stern** <garym.stern@nara.gov>

Stuck on a Call

1 message

GaryM Stern <garym.stern@nara.gov>

Thu, Nov 19, 2020 at 12:23 PM

To: Eric Hamilton (b) (6)

I should be able to call you back in around 15 minutes.

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
301-837-3026 (office)
301-837-0293 (fax)
garym.stern@nara.gov

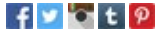


From: GaryM Stern <garym.stern@nara.gov> <garym.stern@nara.gov>
Sent time: 11/20/2020 12:45:27 PM
To: Gast, Scott F. EOP/WHO (b) (6)
Cc: Laster, John <john.laster@nara.gov>; Eric Hamilton (b) (6) Purpura, Michael M. EOP/WHO (b) (6)
Subject: CREW Letter re Use of Screenshots to Preserve Records on WhatsApp
Attachments: CREW Letter - 2020.11.20.pdf

Scott, fyi, in case you hadn't yet seen this letter. (b) (5), (b) (6)

Thanks,
Gary

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
301-837-3026 (office)
301-837-0293 (fax)
garym.stern@nara.gov



November 20, 2020

Pat Cipollone
White House Counsel
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

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

Laurence Brewer
Chief Records Officer
National Archives and Records Administration
700 Pennsylvania Avenue, N.W.
Washington, D.C. 20408

Re: Notice of Potential Removal, Loss, or Destruction of Presidential Records Stored in
Non-Official Electronic Messaging Accounts and Demand for Preservation

Dear Messrs. Cipollone, Ferriero, and Brewer:

Citizens for Responsibility and Ethics in Washington (“CREW”) writes to seek your assurances that a deficiency in the White House’s official Presidential Records Act (“PRA”) policy guidelines will be addressed before the conclusion of President Trump’s term of office on January 20, 2021. Left uncorrected, that policy likely will result in Presidential records being improperly removed, lost, or destroyed in violation of the PRA.

In letters previously sent to the White House Counsel, individual White House staff, and the National Archives and Records Administration (“NARA”), CREW addressed problems with an official White House policy that authorizes employees to preserve certain Presidential records created or sent from non-official electronic messaging accounts merely by taking a “screenshot” of the record and forwarding the screenshot to an official messaging account.¹ The existence of this “screenshotting” policy has been confirmed in memoranda issued by the White House Counsel,² and in interviews with members of Congress and their staff.³ In addition, counsel for Senior Advisor to the President Jared Kushner has confirmed both that Mr. Kushner uses WhatsApp, a non-official electronic messaging account, to create or send Presidential records, and that Mr.

¹ See Letter from Noah Bookbinder to Pat Cipollone, Nov. 12, 2020, <https://bit.ly/3nC5FLJ>; Letter from Noah Bookbinder to Jared Kushner, Oct. 28, 2018, <https://bit.ly/3pgFFra>.

² See White House Memo, Presidential Records Act Obligations, Feb. 22, 2017, <https://bit.ly/3pCh2oR>.

³ See Letter from Rep. Elijah E. Cummings to Pat A. Cipollone, Mar. 21, 2019, <https://bit.ly/2KgbH6t>; Senate Homeland Sec. and Gov’t Affairs Comm. Memo., Briefing from White House Counsel on Private Email Use, Oct. 27, 2017, <https://bit.ly/3pPyO8q>.

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David Ferriero
Laurence Brewer
November 20, 2020
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Kushner preserves those records by screenshotting them and sending the screenshots to an official account.⁴

The White House's screenshotting policy is facially non-compliant with the PRA. Under Section 2209 of the PRA, if White House employees "create or send a Presidential . . . record using a non-official electronic message account," they must either "(1) cop[y] an official electronic messaging account. . . in the original creation or transmission of the Presidential record," or "(2) forward[] a **complete copy** of the Presidential . . . record to an official electronic messaging account . . . not later than 20 days after the original creation or transmission of the Presidential . . . record."⁵ A screenshot of a Presidential record is not a "complete copy" of that record within the meaning of Section 2209. That is because a screenshot does not capture metadata, attachments, or other digital artifacts associated with the record and, as NARA has repeatedly made clear, a "complete" version of an electronic record must include such items.⁶ There is no indication, moreover, that White House policy includes other protocols for preserving the types of metadata and attachments that would not be captured under the screenshotting policy. It follows that, if the White House does not immediately rescind its screenshotting policy and take steps to ensure preservation of "complete copies" of all Presidential records stored in non-official electronic messaging accounts prior to the end of President Trump's term on January 20, 2021, Presidential records or portions thereof will be removed, lost, or destroyed in violation of the PRA.

Under the PRA, the "President shall remain exclusively responsible for custody, control, and access to such Presidential records" during his "term of office," but "[u]pon the conclusion of a President's term of office, . . . the Archivist of the United States shall assume responsibility for the custody, control, and preservation of, and access to, the Presidential records of that President."⁷ Thus, both the White House and NARA have roles to play to ensure the long-term preservation of Presidential records in the transition period between presidential administrations.

We therefore request that you advise us by no later than November 27, 2020 whether the White House has rescinded its screenshotting policy, and what steps, if any, the White House has taken to ensure that "complete copies" of all Presidential records created or sent from non-official electronic messaging accounts during President Trump's term of office—including any metadata and attachments associated with those records—are permanently preserved in official White House accounts before the President's term ends on January 20, 2021.

To ensure prompt delivery, please provide any written response to this letter by email to Nikhel Sus at nsus@citizensforethics.org.

⁴ See Letter from Rep. Elijah E. Cummings to Pat A. Cipollone, Mar. 21, 2019.

⁵ 44 U.S.C. § 2209(a)(1)-(2) (emphasis added).

⁶ See NARA Bulletin 2015-04, Sept. 15, 2015, <https://www.archives.gov/records-mgmt/bulletins/2015/2015-04.html>; NARA Bulletin 2015-02, July 29, 2015, <https://www.archives.gov/records-mgmt/bulletins/2015/2015-02.html>.

⁷ 44 U.S.C. § 2203(f), (g)(1).

Pat Cipollone
David Ferriero
Laurence Brewer
November 20, 2020
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Sincerely,

A handwritten signature in blue ink, appearing to read "Noah Bookbinder", with a stylized, cursive script.

Noah Bookbinder
Executive Director