



Archivist of the
United States

January 17, 2023

The Honorable James Comer
Chairman
Committee on Oversight and Accountability
2157 Rayburn House Office Building
U.S. House of Representatives
Washington, DC 20515-6143
By Email

Dear Chairman Comer:

Thank you for your letter of January 10, 2023, and for the opportunity to clarify some facts in regard to the role of the National Archives and Records Administration (NARA) in relation to the recovery of Presidential Records in January of 2022 from former President Trump, and of Vice-Presidential records in November of 2022 from an office of former Vice President Joe Biden, which in both instances involved the discovery of classified records prompting a referral to the Department of Justice (DOJ). In your letter, you have specifically requested documents and interviews concerning the discovery of classified records at former Vice President Biden's private offices. I want to express my commitment to working cooperatively with you and your staff on this and all matters of concern to the Committee on Oversight and Accountability. Our desire to provide you with as much information as we can, however, must also be balanced with the need to protect Executive branch equities, particularly as they relate to ongoing criminal law enforcement investigations by DOJ.

As you are aware, on January 13, 2023, your staff met with my Director of Congressional Affairs, John Hamilton, and my General Counsel, Gary M. Stern, to discuss our response to your letter. They explained that we had begun the search for responsive records, and that we would have to consult with DOJ regarding the release of any such records. DOJ has advised it will need to consult with the newly appointed Office of Special Counsel (SCO) in DOJ, to assess whether information can be released without interfering with the SCO's investigation.

NARA expects to get those records to DOJ within the next few days, and we have asked that they expedite their review so that we can respond to you as close to your January 24 due date as possible. DOJ is committed to working with NARA to facilitate your discussions with the Committee. However, DOJ was not able to provide us with a specific date by which they will

complete their review because they have not yet received the materials and because the SCO was only established on January 12.

It is my understanding that you would like to interview Mr. Stern and Mr. Hamilton on the same topics that are addressed in your document request. I respectfully request that you agree to postpone the scheduling of any interviews until DOJ completes its review of the documents, since any restrictions that apply to the documents will necessarily apply to the interviews.

In this initial response to you, I would like to address the concerns you have raised about NARA conducting its work with a political bias. You stated: “NARA’s public enforcement of the Presidential Records Act against former President Trump while failing to disclose violations by President Biden to Committee Republicans and the American public raises concerns about inconsistent policy and procedures at the agency that creates the appearance of political bias.”

As my General Counsel explained to your staff, NARA treats all of its communications with the White House, DOJ, and the representatives of the former Presidents (and Vice Presidents) as presumptively confidential. For this reason, NARA did not affirmatively discuss or disclose to our oversight committees or to the public our activities concerning the return to our custody of either the Biden Vice Presidential records or the Trump Presidential records, or our referral of both matters to DOJ because we found classified information. Only when those topics were subsequently reported publicly in the press (approximately nine months after communications began on the Trump matter, and two and a half months on the Biden matter), did NARA begin to respond to queries from you and your predecessor chairwoman – and only then in a manner that would not harm the integrity of the DOJ’s investigations. Accordingly, our actions and responses with respect to both of these matters have been entirely consistent and without any political bias.

Additionally, and as I noted to you in my August 16, 2022, response to your August 10, 2022, letter, NARA had no knowledge of and played absolutely no role in the FBI’s August 2022 search of President Trump’s Mar-a-Lago estate, nor of the prior subpoena that DOJ had issued.

I would also like to address the concern you raised about our October 11, 2022, press statement in response to incorrect statements by former President Trump and others that NARA’s transfer of the Obama Presidential records to a NARA storage facility in the Chicago suburb of Hoffman Estates, IL, was somehow under the personal control of former President Obama. Please note that at the end of every Presidential administration, NARA receives only the Presidential and Vice Presidential records that the departing administration provides us; we are never able to know whether we have “all” such records. Until November 2022, we were not aware that any Obama-Biden records were missing. For the reasons noted above, our policy was not to comment publicly about the recovery of the Biden Vice-Presidential records in November.

I hope this letter helps to address some of your concerns. I will respond further regarding the document production you have requested.

Sincerely,

A handwritten signature in cursive script that reads "Debra Steidel Wall".

Debra Steidel Wall
Acting Archivist of the United States

cc: The Honorable Jamie B. Raskin, Ranking Member