

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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September 13, 2022

Ms. Debra Steidel Wall
Acting Archivist of the United States
National Archives and Records Administration
700 Pennsylvania Avenue, N.W.
Washington, D.C. 20408

Dear Ms. Steidel Wall:

I am writing regarding former President Trump's removal of presidential records and classified material from the White House after his term as president ended, and his dangerous decision to retain these sensitive government records in non-secure locations at his Mar-a-Lago Club. Well-established laws protect classified information and require the return of presidential records to the U.S. Government.¹ In light of revelations that Mr. Trump's representatives misled investigators about his continued possession of government property and that material found at his club included dozens of "empty folders" for classified material, I am deeply concerned that sensitive presidential records may remain out of the control and custody of the U.S. Government.²

Prior to the August 8, 2022, court-authorized search of former President Trump's Mar-a-Lago Club, Mr. Trump had failed to comply with multiple requests from the National Archives and Records Administration (NARA) and a grand jury subpoena seeking the return of all presidential records and classified documents he retained after leaving office. Two months before the August 8 search, Mr. Trump's attorney certified that all documents bearing classified markings had been returned and that no "copy, written notation, or reproduction of any kind was retained."³ Yet the August 8 search revealed that he continued to improperly possess more than 11,000 government records, including more than 100 documents with classified markings.⁴

As the Committee with primary jurisdiction over the Presidential Records Act (PRA) and

¹ See, e.g., 44 U.S.C. § 2202; 18 U.S.C. § 793.

² *F.B.I. Found 48 Empty Folders that Had Contained Classified Documents at Trump's Home*, New York Times (Sept. 2, 2022) (online at www.nytimes.com/2022/09/02/us/politics/trump-fbi-folders-classified.html); Detailed Property Inventory Pursuant to Court's Preliminary Order (Aug. 30, 2022), *Donald J. Trump v. United States*, S.D.FLA (No. 22-cv-81294).

³ United States' Response to Motion for Judicial Oversight and Additional Relief (Aug. 30, 2022), *Donald J. Trump v. United States*, S.D.FLA (No. 22-cv-81294).

⁴ *Id.*

as the principal oversight committee of the House of Representatives, the Oversight Committee has been investigating Mr. Trump's mishandling of presidential records for seven months. This inquiry, which is separate from the Department of Justice's (DOJ) ongoing criminal investigation into Mr. Trump's actions, seeks to understand "the full extent of this conduct" in order to "determine what additional steps, including potential legislative reforms, may be needed to ensure the preservation of presidential records for the American people."⁵

In light of the serious risk that Mr. Trump may still be retaining sensitive government records at Mar-a-Lago or his other properties, I urge NARA to seek a personal certification from Donald Trump that he has surrendered all presidential records that he illegally removed from the White House after leaving office. I also ask that the agency conduct an urgent review of presidential records recovered from the Trump White House to assess whether presidential records remain unaccounted for and potentially in the possession of the former president.

Former President Trump's Retention of Thousands of Government Records After Leaving Office, in Violation of the Presidential Records Act

Congress enacted the PRA following the Watergate scandal in which President Richard Nixon improperly sought to retain and destroy White House records, including Oval Office tapes implicating him in obstruction of justice.⁶ The PRA states that the "United States shall reserve and retain complete ownership, possession, and control of Presidential records," and provides:

Upon the conclusion of a President's term of office, or if a President serves consecutive terms upon the conclusion of the last term, 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

In a clear violation of the PRA, upon leaving office, Mr. Trump removed dozens of boxes of presidential records from the White House and retained them at his Mar-a-Lago Club. This club serves as his personal residence and also operates as a resort and wedding venue for five hundred members and their guests.⁸ As former Attorney General William Barr explained, it is "unprecedented for a president to take all this classified information and put them in a country club."⁹

⁵ Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, to David S. Ferriero, Archivist of the United States, National Archives and Records Administration (Feb. 24, 2022) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2022-02-24.CBM%20to%20Ferriero-NARA%20re%20Document%20Request.pdf>).

⁶ E.g., *Presidential Records Act Scandals, from Nixon's Tapes to Trump's "Burn Bags,"* Washington Post (Aug. 9, 2022) (online at www.washingtonpost.com/history/2022/02/07/presidential-records-act-trump-nixon/).

⁷ 44 U.S.C. §§ 2201, 2203(g)(1).

⁸ *A Quick History of Mar-a-Lago, Trump's Lavish Club and Residence*, New York Times (Aug. 9, 2022) (online at www.nytimes.com/2022/08/09/us/mar-a-lago-florida.html).

⁹ *Barr Says No "Legitimate Reason" for Trump to Have Classified Documents*, Washington Post (Sept. 2, 2022) (online at www.washingtonpost.com/politics/2022/09/02/trump-fbi-search-classified-documents-barr/).

On May 6, 2021, NARA requested that Mr. Trump return presidential records in his possession.¹⁰ Mr. Trump delayed returning these records for months, while he hosted numerous large events at Mar-a-Lago with inadequate vetting. Reports indicate that a Ukrainian woman posed as a Rothschild heiress to gain access to Mar-a-Lago in May 2021, and mingled with other U.S. officials, sparking a Federal Bureau of Investigation (FBI) investigation and heightening fears over potential access to the highly sensitive government documents at the club.¹¹

In January 2022, eight months after NARA's initial request, Mr. Trump finally returned 15 boxes of presidential records to NARA. On February 9, 2022, the Committee wrote to NARA requesting information regarding his removal of these documents and their classification level. NARA responded that it had "identified items marked as classified national security information within the boxes."¹² These boxes included 184 documents with classified information, including Special Access Program materials that are among the most sensitive and highly protected information in the U.S. Government.¹³ Despite the obvious security concerns raised by the removal of these government records and their storage at his club, Mr. Trump released a statement that his transfer of records a year after the end of his administration was "viewed as routine and 'no big deal.'"¹⁴

Federal authorities later determined that Mr. Trump had still not returned all records to the U.S. Government and continued to possess classified information. In May 2022, a grand jury subpoena was issued requiring Mr. Trump to turn over all documents in his possession bearing classification markings. After receiving the subpoena, Mr. Trump returned an additional 38 documents with classification markings on June 3, 2022. At that time, Mr. Trump's personal attorney provided a sworn certification that all documents with classified markings had been turned over. Mr. Trump's counsel asserted to FBI agents and a DOJ attorney that all White House records he had transferred to Florida were kept in a single location—a storage room at the Mar-a-Lago Club—and nowhere else. However, when DOJ officials visited the storage room, Mr. Trump's lawyers "explicitly prohibited government personnel from opening or looking

¹⁰ *Inside the 20-Month Fight to Get Trump to Return Presidential Material*, New York Times (Aug. 26, 2020) (online at www.nytimes.com/2022/08/26/us/politics/trump-documents-search-timeline.html).

¹¹ *U.S. Investigates Fake Heiress Who Infiltrated Trump's Mar-A-Lago Resort*, The Guardian (Aug. 27, 2022) (online at www.theguardian.com/us-news/2022/aug/27/fake-heiress-infiltrates-mar-a-lago-trump).

¹² Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, to David S. Ferriero, Archivist of the United States, National Archives and Records Administration (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>); Letter from David S. Ferriero, Archivist of the United States, National Archives and Records Administration to Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform (Feb. 19, 2022) (online at www.archives.gov/files/foia/ferriero-response-to-02.09.2022-maloney-letter.02.18.2022.pdf).

¹³ *Documents Recovered at Mar-A-Lago Were Among Government's Most Classified, Letter Shows*, Politico (Aug. 23, 2022) (online at www.politico.com/news/2022/08/23/national-archives-letter-trump-security-00053250).

¹⁴ *Trump: Return of Documents to Archives Viewed as Routine and "No Big Deal,"* The Hill (Feb. 10, 2020) (online at <https://thehill.com/homenews/administration/593648-trump-says-return-of-documents-to-archives-routine-and-no-big-deal/>).

inside any of the boxes that remained in the storage room, giving no opportunity for the government to confirm that no documents with classification markings remained.”¹⁵

On August 8, 2022, after a federal court found probable cause that further classified documents would be found on the premises, the FBI executed a search warrant at Mar-a-Lago. The FBI recovered more than 11,000 government records.¹⁶ Among them were 13 boxes containing more than 100 documents bearing classified markings, including documents with the U.S. Government’s highest classification markings—related to human source intelligence—as well as additional classified documents in former President Trump’s office desk drawer.¹⁷ The classified documents reportedly included information about a foreign government’s nuclear capabilities and top-secret U.S. operations.¹⁸

In the inventory of items seized, DOJ identified 48 empty folders with classified banners, as well as 42 empty folders labeled as “Return to Staff Secretary or Military Aide.” Although it is not clear from the inventory list why these folders were empty, the apparent separation of classified material and presidential records from their designated folders raises questions as to how the materials were stored and whether sensitive material may have been lost or obtained by third parties.¹⁹ Mr. Trump’s former National Security Advisor John Bolton has expressed concern that Mr. Trump might have transferred classified documents to other clubs, such as Bedminster National Golf Club, where he recently hosted a professional golf tournament sponsored and attended by numerous foreign officials.²⁰

Risk that Former President Trump Has Retained Sensitive Documents

On at least three separate occasions, Mr. Trump had the opportunity to turn over all presidential records and classified documents, as demanded by federal authorities, but failed to do so:

¹⁵ United States’ Response to Motion for Judicial Oversight and Additional Relief (Aug. 30, 2022), *Donald J. Trump v. United States*, S.D.FLA (No. 22-Cv-81294); *Trump Team May Have Hidden, Moved Classified Papers, Justice Dept. Says*, Washington Post (Aug. 31, 2022) (online at www.washingtonpost.com/national-security/2022/08/31/trump-documents-removed-storage-room/).

¹⁶ Detailed Property Inventory Pursuant to Court’s Preliminary Order (Aug. 30, 2022), *Donald J. Trump v. United States*, S.D.FLA (No. 22-cv-81294); *F.B.I. Found 48 Empty Folders that Had Contained Classified Documents at Trump’s Home*, New York Times (Sept. 2, 2022) (online at www.nytimes.com/2022/09/02/us/politics/trump-fbi-folders-classified.html).

¹⁷ *Id.*

¹⁸ *Material on Foreign Nation’s Nuclear Capabilities Seized at Trump’s Mar-a-Lago*, Washington Post (Sept. 6, 2022) (online at www.washingtonpost.com/national-security/2022/09/06/trump-nuclear-documents/).

¹⁹ Detailed Property Inventory Pursuant to Court’s Preliminary Order (Aug. 30, 2022), *Donald J. Trump v. United States*, S.D.FLA (No. 22-cv-81294); *F.B.I. Found 48 Empty Folders That Had Contained Classified Documents at Trump’s Home*, New York Times (Sept. 2, 2022) (online at www.nytimes.com/2022/09/02/us/politics/trump-fbi-folders-classified.html).

²⁰ *Ex-Trump Aides Say He Probably Has More Sensitive Documents at Other Properties*, Huffington Post (Aug. 31, 2022) (online at www.huffpost.com/entry/trump-more-sensitive-documents_n_630fe63ae4b063d5e6215c83).

- Upon the conclusion of his term in office, Mr. Trump failed to return all government property, including classified material;
- After receiving a May 2021 request from NARA, Mr. Trump failed to return all government property, including classified material; and
- After receipt of a grand jury subpoena in May 2022, Mr. Trump failed to return all government property, including classified material.

The Committee is concerned that, given this pattern of conduct, Mr. Trump may continue to retain presidential records at non-secure locations, including classified material that could endanger our nation's security and other important records documenting Mr. Trump's activities at the White House. NARA's staff recently informed the Committee that the agency is not certain whether all presidential records are in its custody.²¹

As a result, the Committee requests that NARA conduct an urgent review of presidential records from the Trump Administration to identify any presidential records or categories of presidential records, whether textual or electronic, that NARA has reason to believe may still be outside of the agency's custody and control. Please also assess any other limitations on the completeness, accuracy, and accessibility of presidential records provided to NARA by the Trump Administration.

Please provide the Committee an initial assessment of NARA's findings from this review by September 27, 2022.

In addition, I urge NARA to seek from former President Trump a written certification that he has surrendered all presidential records or classified materials, has not made any copies or reproductions of such materials, and has not transferred any records or government documents to any party other than NARA or DOJ since his term ended.²² Although the President is not required under current law to provide such a certification, I believe that the exceptional circumstances in this case warrant that Mr. Trump do the same so Congress and the American people can fully understand the impact of his actions on our nation's security, take mitigating action, and consider legislative reforms.

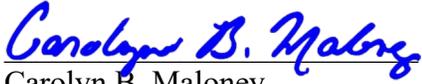
The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. If you have any questions regarding this request, please contact Committee staff at (202) 225-5051. Thank you for your prompt attention to this matter.

²¹ Call with Staff, Committee on Oversight and Reform, and Staff, National Archives and Records Administration (Aug. 24, 2022).

²² When federal employees separate from government service, they are routinely required to certify that they have surrendered all U.S. Government property, including classified material. *See, e.g.*, United States Information Agency, *Separation Statement* (online at www.gsa.gov/cdnstatic/OF%20109.pdf?forceDownload=1). Secretary of State Hillary Clinton provided a certification, under penalty of perjury, that all emails that were federal records had been returned to the Department of State. Supplement To Defendant's August 7, 2015, Status Report, (Aug. 10, 2015), *Judicial Watch, Inc. v. U.S. Dep't of State*, D.D.C (No. 13-cv-1363).

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Sincerely,


Carolyn B. Maloney
Chairwoman

cc: The Honorable James Comer, Ranking Member