

2023 - 049

NARA NOTICE

Date: January 18, 2023

To: All NARA

Subject: Biden Vice-Presidential Records Update

In [NARA Notice 2023-044](#), I acknowledged media reports relating to records from President Joseph Biden's tenure as Vice President and said I would share more information with you when I am able. I also shared that under the Presidential Records Act (PRA), Vice-Presidential records are treated in the same way as Presidential records. The PRA mandates the preservation of records by each administration so that a complete set of Presidential records is transferred to NARA at the end of an administration.

Yesterday, I responded to a January 10 letter from Representative James Comer, Chairman of the House Committee on Oversight and Accountability. In that letter, I expressed NARA's commitment to working cooperatively with the Committee, balanced with the need to protect Executive branch equities, particularly as they relate to ongoing criminal law enforcement investigations by the Department of Justice (DOJ).

I noted that NARA staff met with Committee staff on January 13 and that we had begun searching for NARA records responsive to the Committee request. I stated that DOJ has advised us it will need to consult with the newly appointed Office of Special Counsel in DOJ to assess whether information can be released without interfering with the Special Counsel's investigation. In addition, I said NARA, as requested, would make Director of Congressional Affairs John Hamilton and General Counsel Gary M. Stern available for interviews with the Committee, but requested these interviews take place after the Special Counsel has advised NARA on the parameters of the information that can be released.

Finally, I addressed Chairman Comer's concern that NARA has acted with political bias. I explained that our actions and our communications with Congress and the public on both the Biden Vice-Presidential records and the Trump Presidential records matters were entirely consistent. I reminded him that NARA had no knowledge of and played absolutely no role in the Federal Bureau of Investigation's (FBI) August 2022 search of President Trump's Mar-a-Lago

estate, nor of the prior subpoena that DOJ had issued. I explained that [NARA's October 11, 2022, press statement](#) about Obama Presidential records was made in response to incorrect statements by former President Trump and others that NARA's Hoffman Estates, IL, facility was under the personal control of President Obama. Until November 2022, we were not aware that any Obama-Biden records were missing. I clarified that 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.

Chairman Comer's letter and my response are available on NARA's website at: <https://www.archives.gov/foia/biden-vp-records-covered-by-pra>.

We will continue to handle these matters professionally and without political bias.

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Acting Archivist of the United States

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