

AHA Condemns Violations of Presidential Records Act

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The American Historical Association condemns in the strongest terms former President Donald J. Trump's reported extensive and repeated violations of the Presidential Records Act (PRA) of 1978. The PRA requires that:

Through the implementation of records management controls and other necessary actions, the President shall take all such steps as may be necessary to assure that the activities, deliberations, decisions, and policies that reflect the performance of the President's constitutional, statutory, or other official or ceremonial duties are adequately documented and that such records are preserved and maintained as Presidential records pursuant to the requirements of this section and other provisions of law. 44 U.S.C. §2201-2209

This charge includes the preservation of memoranda, letters, emails, and other written and electronic records related to the President's official duties. The United States of America retains complete ownership, possession, and control of presidential records. Their destruction may occur only with consent of the archivist of the United States.

Previous administrations have violated the PRA through procedural errors and largely minor transgressions that were quickly addressed, but the extent of former President Trump's reported tearing up of records and disregard for records management controls is unprecedented, as is the removal of 15 cartons of records to his residence in Florida in January. On February 7, 2022, the National Archives and Records Administration confirmed in a media statement that, "As required by the Presidential Records Act (PRA), these records should have been transferred to NARA from the White House at the end of the Trump Administration in January 2021."

Such blatant disregard for the integrity of presidential records has not occurred since the Watergate scandal during the Nixon administration, whose actions prompted the passage and enactment of the PRA.

A media statement issued by the National Archives and Records Administration described the records received by the agency as follows:

Some of the Trump presidential records received by the National Archives and Records Administration included paper records that had been torn up by former President Trump. As has been reported in the press since 2018, White House records management officials during the Trump Administration recovered and taped together some of the torn-up records. These were turned over to the National Archives at the end of the Trump Administration, along with a number of torn-up records that had not been reconstructed by the White House. The

Presidential Records Act requires that all records created by presidents be turned over to the National Archives at the end of their administrations.

Historians, journalists, and other researchers depend on the preservation of presidential records to educate the public and inform future administrations. These records are also often essential to smooth transitions in presidential administrations, which have traditionally taken place regardless of political party. Further, the preservation of records by any public entity is essential to democratic processes that depend upon appropriate public scrutiny. As David Ferriero, archivist of the United States, stated: “Whether through the creation of adequate and proper documentation, sound records management practices, the preservation of records, or the timely transfer of them to the National Archives at the end of an Administration, there should be no question as to need for both diligence and vigilance. Records matter.”

These acts of destruction and noncompliance with the Presidential Records Act demonstrate blatant contempt for both the rule of law and the principles of transparency and accountability that constitute the bedrock of our nation’s democracy.