

EXECUTIVE SUMMARY

Presidential Records Act (PRA) Enacted in 1978, requires the president to preserve all presidential records, which are defined as those records relating to the “activities, deliberations, decisions, and policies that reflect the performance of [the president’s] constitutional, statutory, or other official or ceremonial duties. . .”

Clinton Administration Policy: In 1993, then-Assistant to the President and Staff Secretary John Podesta sent a memo to all presidential staff explaining that the PRA required all staff members to maintain all records, including emails. Podesta stated that the use of external email networks was prohibited because records would not be saved as required. The 1997 White House Manual and a 2000 memo issued by Mark Lindsay, then Assistant to the President for Management and Administration echoed this policy, requiring staff to use only the White House email system for official communications.

Bush Administration Policy: The Bush Administration has refused to make public its record-keeping policy. A confidential source provided CREW with a 2002 document indicating the use of “non-EOP messaging-enabled mechanisms should not be used for official business.”

Bush Administration Practice: In the wake of the scandals surrounding Jack Abramoff and the fired U.S. Attorneys, emails were released showing that top White House staffers routinely used Republican National Committee (RNC) email accounts to conduct official business. For example, J. Scott Jennings, White House Deputy Political Director, used an RNC account to communicate with the former chief of staff to Attorney General Alberto Gonzales regarding the appointments of new U.S. Attorneys. Similarly, Susan Ralston, a former aide to Karl Rove, used RNC email accounts to communicate with Abramoff about appointments to the Department of the Interior.

PRA Violations: 1) The administration failed to implement adequate record-keeping systems to archive presidential email records; 2) two confidential sources independently informed CREW that the administration abandoned a plan to recover more than **five million** missing emails; 3) White House staff used outside email accounts to conduct presidential business, ensuring that emails were not adequately preserved. In fact, former Abramoff associate Kevin Ring said in an email to Abramoff that Ralston had told him not to send emails to her official White House account “because it might actually limit what they can do to help us, especially since there could be lawsuits, etc.”

Hatch Act Excuse: The administration has claimed that Rove, Jennings and other staffers use RNC accounts to avoid violating the Hatch Act. **This is untrue.** The Hatch Act prohibits White House staff from using official resources for purely “political” purposes. “Political” refers to the president’s role as either a candidate for office or as the leader of his party. Email communications regarding presidential appointments for U.S. Attorney and Interior Department positions clearly fall within the PRA as making appointment is an official presidential function and does not relate to the president’s role as party leader.