June 14, 2018

The Honorable Donald F. McGahn
White House Counsel
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. McGahn:

Citizens for Responsibility and Ethics in Washington ("CREW") and American Oversight respectfully request that you take all necessary steps to ensure that President Donald Trump fully complies with his obligation to preserve all presidential records pursuant to the Presidential Records Act, 44 U.S.C. §§ 2201, et seq. ("PRA").

Recognizing the value of the “fullest possible documentary record” of a presidency to our country and to “scholars, researchers and citizens of our own and future generations,”1 Congress mandated public ownership of a president’s papers through the Presidential Records Act. The PRA directs the president to “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 . . . duties are adequately documented and that such records are preserved and maintained as Presidential records pursuant to” the statute. 44 U.S.C. § 2201(2)(B)(i). During a president’s term in office, the president is free to dispose of only those records “that no longer have administrative, historical, informational, or evidentiary value,” id. § 2203(c), and only after obtaining the views of the Archivist of the United States, id. § 2203(c)(1).

According to recent news reports, President Trump regularly rips up papers once he is done with them, regardless of their status as presidential records.2 Apparently recognizing such papers must be preserved as presidential records, White House aides reportedly have collected the fragments of paper from both the Oval Office and the personal residence to be reassembled, using tape, by White House records management staff.3 It is unclear whether these same steps are taken when President Trump is at any of his estates, such as Mar-a-Lago and the Bedminster Golf Club.4

Without question, the president’s actions depart significantly from accepted archival preservation practices and risk the loss of critically important papers. Relying on the ability of staff to reassemble and tape together all the pieces of each document is no substitute for a system that ensures documents are fully preserved in the first instance and in the form in which they were received or generated.

3 Id.
4 Reportedly, at least some torn-up records from a presidential visit to Mar-a-Lago were provided to White House records management staff to reconstruct and tape together. Christine Stapleton, Papers From Mar-a-Lago Meetings, Visits Among Those Torn Up by Trump, Palm Beach Post, June 12, 2018, available at https://www.mypalmbeachpost.com/news/papers-from-mar-lago-meetings-visits-among-those-torn-trump/cOIPeJ4RgS8T1e0NFYJ1jN/.
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CREW and American Oversight therefore request that you take all necessary steps to ensure that all presidential records are preserved, and that President Trump refrain from ripping up records that qualify as presidential records. We respectfully suggest that you consider the structured paperwork process implemented by the Obama White House, which appears to have been guided by the principle that history demands the preservation of the fullest record possible.

The Presidential Records Act vests the president and his staff with the solemn responsibility of preserving our nation’s history. President Trump’s actions place the records of his presidency and that history at risk and, indeed, may violate the law. Accordingly, it is imperative that you act as quickly as possible to restore order and certainty to the records management practices of the White House, and to guard against the permanent and irreparable loss of valuable historical records.

Sincerely,

Noah Bookbinder  
Executive Director  
Citizens for Responsibility and Ethics in Washington

Austin R. Evers  
Executive Director  
American Oversight

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5 See Karni, Politico, June 10, 2018.