



National Archives and Records Administration

8601 Adelphi Road
College Park, Maryland 20740-6001

Date: September 5, 2007
To: Allen Weinstein, Archivist
From: Gary M. Stern, General Counsel
Subject: Bush 43 Transition, et al.

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We also had a further opportunity to discuss the email and transition related issues that we have discussed on numerous occasions, including when you, I, and others met with Fred Fielding in late April and in your letter to Fielding of May 1, 2007. Despite a number of very positive meetings and discussions since then, including with Deputy Counsel to the President Mike Farren, we still have made almost zero progress in actually moving ahead with the important and necessary work that is required for a successful transition. Even our rather simple and mundane request that the White House Counsel provide us with formal authorization to begin move planning with the military (TRANSCOM) has lain dormant for months.

More significantly, our repeated requests to begin office-by-office meetings to scope out and inventory the volume, formats, and sensitivities of the PRA records that will be transferred to the National Archives have gone unheeded. We have been told in several meetings that decisions are currently being made as to whether certain IT systems contain Presidential record, as opposed to non-record duplicates. We have tried to explain, for example, that although certain files might look duplicative, there are important archival reasons for why we would still want multiple versions. We have also not received an inventory of the electronic IT systems to be transferred to NARA, which I most recently requested in a July 16, 2007, email to Mike Farren and Chris Oprison.

Of most importance, we still know virtually nothing about the status of the alleged missing White House emails. We have not received a written response to our May 5, 2007, letter regarding alleged missing Federal record emails. And as we stressed to the White House last spring, it is vital that any needed backup restoration project begin as soon as possible, in order that it be completed before the end of the Administration. Our PRA IT specialists, who worked closely with OA earlier in this Administration, remain available to assist OA in both assessing the problem and formulating a solution. We had also asked in the April meeting to see a copy of the 2005 OA report on the missing emails, but have still not been provided such access.

Subsequently, on September 5, 2007, I spoke with Mike Farren on the phone to express our frustration and concern on all of these issues. He said he completely understood and agreed with our concerns, and was already taking steps to get things moving. He claims the only thing they are waiting on now is assigning the right IT person from OA who can be the NARA liaison. I implored with him that we need to start with substantive meetings very soon, perhaps beginning with OA. (I also told him it would also help if they could get things started immediately by giving us the okay to work with TRANSCOM.) Again, he agreed with everything I said (and claimed that all the points I was making he had made himself to Chris Oprison).

We left it that they will be getting back to us very soon to get things going. If we do not hear back or see demonstrable progress by next week, we should then consider again a letter or meeting with you and Fred Fielding.

001627