

5 Million Missing White House E-mails: The Facts

White House Press Briefings:

MS. PERINO: There was an assertion yesterday by one of the groups, outside groups, that . . . within the EOP system, that there had been a gap or that there had been upwards of 5 million emails that were missing. Scott and I are looking into that; we're talking to the Office of Administration. Now, one of the things that occurred . . . there was a conversion sometime between 2002 and 2003 to convert people that were using Lotus Notes when we first arrived to Microsoft Outlook. . . .

I don't have a specific number for you. **Again, I wouldn't rule out that there were a potential 5 million emails lost**, but we'll see if we can get to you. If it was 5 million, I think that, again, out of 1,700 people using email every day, again, there was no intent to have lost them. (Press Gaggle with Dana Perino, April 13, 2007).

MS. PERINO: I did check it out, and we are in communication with the Office of Administration to see if there are days or partial days when there were emails that would have gone missing. And in terms of -- "missing" is a word that -- maybe misplaced, or not necessarily lost forever. **I think there are backup tapes**, there are different ways in order to go back and find emails.

And in talking with them and with the Counsel's Office, there is no indication that anyone who is working on a server or in terms of technical capability that would be able to look at a server, clean up a server, or, in terms of when we converted from Lotus Notes to Microsoft Outlook if there would have been any potential loss there, that there was any intentional loss of any document. I think that those folks take those jobs very seriously and endeavor to make sure that all of the records are preserved for the Presidential Records Act, as well as the Federal Records Act. (Press Briefing by Dana Perino, April 13, 2007).

Q: Are you confident they're on backup tapes, or you're still in that phase of investigating?

MS. PERINO: There should be, and we just want to make sure that there are all of them. And, remember, there's a huge amount of email that comes in and out of the White House. And it's quite a feat for the IT folks to be able to keep up with software upgrades and storage and the amount of -- just the amount of traffic that's coming in and out on emails. On any given year, I think I've read upwards of 50 million emails are sent and received, not to mention forwarded or copied or blind copied, or all of those different features that you can use with email. So it's a massive number.

(Press Briefing by Dana Perino, April 16, 2007).

Letter from Rep. Henry Waxman, Chairman, House Oversight and Government Reform Committee, to Fred Fielding, White House Counsel, August, 30, 2007:

“On May 29, 2007, Keith Roberts, the Deputy General Counsel of the White House Office of Administration, and Emmet Flood, Special Counsel to the President, briefed Committee staff on the White House e-mail system and the missing e-mails. At the briefing, Mr. Roberts informed Committee staff that the White House had discovered in 2005 that **an unknown number of e-mails may not have been preserved in the White House archive, as required by the Presidential Records Act**. According to Mr. Roberts, the Office of the Chief Information Officer then conducted a review of the e-mail system to determine the scope of the potential loss. He said that **this review**

apparently found some days with a very small number of preserved e-mails and some days with no e-mails preserved at all. He also stated that a report summarizing these findings had been presented to the White House Counsel's office.”

Citizens for Responsibility and Ethics in Washington (CREW), “Without a Trace: The Story Behind the Missing White House E-Mails and the Violations of the Presidential Records Act,” April 12, 2007:

- In late 2001 or early 2002, Bush administration **discontinued automatic email archiving/preservation system** put in place by Clinton administration (ARMS)
- Bush administration **failed to put another system in place that would appropriately and effectively save email records** in a records management system
- Instead, Bush administration extracts email messages from the EOP server and stores them in files on a file server
- There are no effective internal controls on this system to ensure complete set of messages; messages can be modified or deleted
- In October 2005, White House discovered emails were missing from this system, briefing White House Counsel (Harriet Miers) on the problem as well as Special Counsel Patrick Fitzgerald’s staff
- EOP’s Office of Administration (OA) did independent analysis to determine extent of missing email problem – **found hundreds of days of email missing between March 2003 and October 2005, for a rough total estimate of five million missing emails**
- White House Counsel was briefed on this and given plan of action to recover missing emails
- **White House never implemented plan to recover missing emails** (even in face of preservation order from DOJ)
- White House has still not put effective email archiving system in place, even though it knows current system is not effective and has led to at least five million missing emails

The Federal Records Act:

“The head of each Federal agency **shall make and preserve records** containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency. . .” 44 U.S.C. § 3101 (emphasis added).

“The Archivist . . . shall notify the head of a Federal agency of any actual, impending, or threatened unlawful removal, defacing, alteration, or destruction of records in the custody of the agency that shall come to his attention, and assist the head of the agency in initiating action through the Attorney General for the recovery of records unlawfully removed and for other redress provided by law.” 44 U.S.C. § 2905(a).

The Presidential Records Act:

The President must “take all such steps as may be necessary to assure that the activities, deliberations, decisions, and policies that reflect the performance of his constitutional, statutory, or other official or ceremonial duties are adequately documented and **that such records are maintained as Presidential records** . . .” 44 U.S.C. § 2203.