

National Archives sends criminal referral to Justice Department over Trump's withholding of classified documents

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Several reports published in the last 72 hours shed further light on former President Donald Trump's criminal efforts to destroy White House documents, in violation of the Presidential Records Act.

According to a series of news articles, Trump frequently tried to destroy records by personally ripping them up and putting the shreds in "burn bags." He also withheld records from the National Archives and Records Administration (NARA) and the House Select Committee investigating the January 6, 2021 attack on the Capitol by illegally storing them at Mar-a-Lago, his Florida resort compound.

Reporting by the *Washington Post*, *New York Times*, NPR and CNN has confirmed that Trump lawyers handed 15 boxes of White House records, previously kept at Mar-a-Lago, to NARA. Within the boxes were emails, memos, faxes, schedules, appointments and intelligence briefings, some of which were classified.

There is an obvious irony in the fact that Trump illegally stored and deleted sensitive records on a scale unprecedented in modern US political history. Throughout his 2016 presidential campaign, Trump incited fascistic violence at campaign rallies against his Democratic opponent, Hillary Clinton, over charges that while serving as secretary of state she deleted emails she should have saved. At nearly every campaign rally, Trump encouraged chants of "Lock her up!"

On Wednesday, the *Washington Post* reported that NARA had asked the Department of Justice (DoJ) to investigate the fact that Trump had taken, and possibly destroyed, documents classified as "top secret." However, neither the *Post* nor the *New York Times* could confirm that an actual investigation had been

opened by the DoJ.

In an article published Wednesday and updated Thursday, the *New York Times* cited a source as saying that once NARA received the boxes from Trump and determined that some of the documents were classified, representatives from the Archives reached out to the Department of Justice for "guidance."

Citing the same source, the *Times* reported the DoJ had suggested that the inspector general of NARA examine the matter first. The *Times* wrote: "It is unclear what the inspector general has done since then, in particular, whether the inspector general has referred the matter to the Justice Department."

Hinting at the enormous crisis wracking the Biden administration and the US political system as a whole, the *Times* observed: "Making a referral to the Justice Department would put senior officials in the position of having to decide whether to open an investigation, a scenario that would thrust the department into a highly contentious political matter."

While the Biden administration and Attorney General Merrick Garland quietly go about their business doing absolutely nothing to hold Trump and his accomplices accountable for their numerous criminal actions, virtually the entire Republican Party continues to embrace far-right violence as "legitimate political discourse." Even prior to last week's Republican National Committee resolution backing the coup, former Speaker of the House Newt Gingrich declared that the Republicans would move to imprison members of the January 6 Committee if they regained control of Congress in the November mid-term elections.

"I think when you have a Republican Congress, this is all going to come crashing down and the wolves will

find out that they are now sheep,” Gingrich threatened on Fox News.

The Democratic response has been predictably feckless. On Tuesday, Senate Judiciary Committee Chairman Dick Durbin, while saying he thought Trump “violated the law” when he destroyed documents, concluded “it’s not likely” that the ex-president and aspiring dictator would be prosecuted.

Oozing cowardice and complacency, Durbin told CNN: “I think it’s a violation of the law. I don’t know if it’s ever been enforced on the president. I can understand in light of some of the things he’s said and done why he wants to destroy the evidence.”

In a preview of an upcoming book by *New York Times* reporter Maggie Haberman, titled *Confidence Man*, the author told CNN on Thursday that staff at the White House residence “would periodically find the toilet clogged,” forcing the “engineer... to come and fix it, and what the engineer would find would be wads of, you know, clumped up printed wet paper.”

This was “not toilet paper,” Haberman said. “This was either notes or some other piece of paper that they believe he had thrown down the toilet.”

While Trump, as expected, denied the allegation on Thursday as “another fake story simply made up by a reporter in order to get publicity for a mostly fictitious book,” *Bloomberg* White House reporter Jennifer Jacobs in a Twitter post backed up Haberman’s reporting as “100% accurate.”

“Staff did find clumped/torn/shredded papers and fished them out from blocked bathroom toilet--and believed it had been the president’s doing, sources told me at the time,” Jacobs wrote.

The House Select Committee previously revealed that some of the files turned over to it by the National Archives had been taped back together after being torn up by Trump. These included daily presidential diaries, schedules, appointment information, visitor logs and call logs, some of which, the committee revealed on Thursday, had “gaps,” including on the day of the failed coup.

It was well known prior to January 6, 2021 that Trump used his personal cell phone and those of White House aides in order to hide his criminal activity. The committee knows, for example, based on a public admission, that top Trump attack dog Jim Jordan, Republican congressman from Ohio, held a phone

conversation that lasted at least 10 minutes with Trump on the morning of January 6.

Jordan was one of 147 Republicans who voted against certifying the election of Joe Biden after the attack on the Capitol. None of the records turned over by the National Archives to the January 6 Committee have any record of this call, as well as several others that were reportedly held by Trump at the time.

On Thursday, the House Oversight Committee, chaired by New York Democrat Carolyn Maloney, announced that it would be launching an investigation into “potential serious violations” of the Presidential Records Act, specifically concerning Trump’s attempts to shelter and destroy records.

Maloney said that documents “appear to have been removed from the White House in violation of the Presidential Records Act” and that “Former President Trump and his senior advisers must also be held accountable for any violations of the law.”

Meanwhile, Trump coup lawyer Rudy Giuliani failed to appear before the House January 6 Committee for a scheduled deposition on Tuesday. On Wednesday, the *Washington Post* reported that Giuliani personally called and demanded that Antrim County, Michigan Prosecutor James Rossiter turn over voting machines to him and other Trump lawyers following the November 2020 election.

Rossiter told the *Post* that even if he had had probable cause to seize the machines, which he did not, there were no circumstances under which he would have given them to an outside party such as Trump’s lawyers.

In Trump’s unsigned December 16, 2020 draft executive order, which called for the US military to seize voting machines, the first example of alleged “international and foreign interference” cited is “the forensic report of the Antrim County, Michigan voting machines...”



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