

RON JOHNSON, WISCONSIN, CHAIRMAN

JOHN McCAIN, ARIZONA
ROB PORTMAN, OHIO
RAND PAUL, KENTUCKY
JAMES LANKFORD, OKLAHOMA
MICHAEL B. ENZI, WYOMING
JOHN HOEVEN, NORTH DAKOTA
STEVE DAINES, MONTANA

CLAIRE McCASKILL, MISSOURI
THOMAS R. CARPER, DELAWARE
JON TESTER, MONTANA
HEIDI HEITKAMP, NORTH DAKOTA
GARY C. PETERS, MICHIGAN
MARGARET WOOD HASSAN, NEW HAMPSHIRE
KAMALA D. HARRIS, CALIFORNIA

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

CHRISTOPHER R. HIXON, STAFF DIRECTOR
MARGARET E. DAUM, MINORITY STAFF DIRECTOR

September 28, 2017

Donald F. McGahn
White House Counsel
Eisenhower Executive Office Building
1650 Pennsylvania Avenue, NW
Washington, DC 20501

Dear Mr. McGahn:

I write today to renew longstanding concerns over White House staff's compliance with the Presidential Records Act. As you may recall, I wrote to you nearly eight months ago, on January 30, 2017, in order to gain a better understanding of White House efforts to determine whether covered officials in President Donald Trump's Administration were using private email accounts to conduct official business, as well as to ascertain whether any corrective actions had been taken by your office in this regard. As of the date of this letter, I still have not received a response.

Recent public reports indicate that Jared Kushner, Assistant to the President and Senior Advisor, has corresponded with government officials, in nearly 100 emails, about White House matters through a private email account.¹ We have since learned that five additional senior officials in President Trump's Administration have also used, or continued to use, private email accounts to discuss White House matters, including National Economic Council Director Gary Cohn, and Assistant to the President Ivanka Trump.² This practice appears to be longstanding, as it reportedly dates back to the tenure of President Trump's former Chief of Staff, Reince Priebus, and his former Chief White House strategist, Steve Bannon.³

The use of private email accounts, which are not protected by federal government experts with key technical capabilities, raises serious concerns – namely, that those accounts may be less secure.⁴ In addition, this practice raises important questions about federal recordkeeping and transparency, particularly if such use results in non-compliance with the Presidential Records Act and regulations from the National Archives and Records Administration. The intentional

¹ Josh Dawsey, *Kushner Used Private Email to Conduct White House Business*, POLITICO (Sep. 24, 2017).

² Matt Apuzzo and Maggie Haberman, *At Least 6 White House Advisers Used Private Email Accounts*, N.Y. TIMES (Sep. 25, 2017).

³ *Id.*

⁴ *Recommendations on Federal Archives and Records Management Issues*, Prepared for the Trump Presidential Transition Team by the Council of State Archivists, the National Association of Government Archives and Records Administrators, the Regional Archival Associations Consortium, and the Society of American Archivists (Dec. 9, 2016).

violation by a covered employee can serve as a basis for disciplinary action in accordance with federal laws.⁵

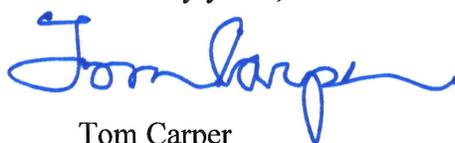
In addition to reiterating the requests from my January 30, 2017 letter, I respectfully request the following information, no later than October 6, 2017:

1. All written policies and procedures provided to White House officials regarding compliance with the Presidential Records Act, including but not limited to, training and guidance materials, in addition to a written response indicating whether and how those policies have been updated since the beginning of the Trump Administration.
2. A list of covered officials on President Trump's White House staff who have used, or are using, private email accounts to conduct official business at any point during their employment in the Administration.
3. A written response indicating whether all covered officials using private email accounts are complying with Presidential Records Act guidelines that require the copying or forwarding of all Presidential records maintained on private email accounts to a government system no later than 20 days after the original creation of such records.⁶

If you have any questions about this request, please contact [REDACTED] 202-224-2441. Thank you very much for your attention to this matter.

With best personal regards, I am

Sincerely yours,



Tom Carper
United States Senator

⁵ The Presidential Records Act, 44 U.S.C. § 2209(b) (2014).

⁶ *Id.* at § 2209(a)(2).