

# TONY FRATTO OPENS HIS BIG FAT MOUTH-AND WAXMAN RESPONDS

When I read Tony Fratto's aggressive denials that the White House had lost millions of emails today ...

Q Tony, on the subject, could you address the missing White House emails and the law suit? It is a subject of reports this morning. Are there in fact the emails missing? What's the likelihood of their recovery versus the —

MR. FRATTO: I think our review of this, and you saw the court filing on this, and our declaration in response to the judge's questions — I think to the best of what all the analysis we've been able to do, we have absolutely no reason to believe that any emails are missing; there's no evidence of that. There's no — we tried to reconstruct some of the work that went into a chart that was entered into court records and could not replicate that or could not authenticate the correctness of the data in that chart. And from everything that we can tell, our analysis of our backup systems, we have no reason to believe that any email at all are missing.

Q So where are they?

MR. FRATTO: Where are what?

Q Where are part of —

MR. FRATTO: Which email? Look, no one will tell you categorically about any system — any system, whether it's your system at Bloomberg or our system here at the White House, past and present,

categorically that data cannot be missing. All of our review of it and all of the our understanding of the way that the backup system works, it's a backup system that captures existing data, it captures things that are stored and archived. We have no reason to believe that there's any data missing at all – and we've certainly found no evidence of any data missing.

Q So that would mean that if you were asked, you would be in a position to comply with a request to produce those documents?

MR. FRATTO: Yes, which documents? I mean, if someone has a specific request for documents and they would like us to search for particular emails, of course we could search for emails – and we have. And we have been responsive to requests in the past.

Q And they have been produced? They do exist?

MR. FRATTO: We have produced emails upon request, either for our own internal review or sometimes in response to investigations that have taken place on the Hill. I mean, we have been able to go back and find email. The question is, have we been able to find a large mass of missing email? No, we have not located somewhere in the system the absence of something. We have not been able to note the absence of anything in our databases.\*

Q You're saying they're there, you just haven't located them yet?

MR. FRATTO: No, I'm saying we have no evidence that shows that anything at all is missing. And you're saying, well, have you found the missing emails – and we say we have no evidence that anything is missing.

Q So you're saying that would include emails that were erased from the Republican National Committee system that was used by some White House officials?

MR. FRATTO: I can't speak to the RNC's system of archiving and storing email. All I can tell you is that the email on the White House computers, we have no reason to believe that any email or other data are missing.

I said to myself, "Tony, you just got the White House in a **heap** of trouble with your big fat mouth." After all, I reasoned to myself, the White House has previously represented to people, including Patrick Fitzgerald, that they had lost email. That's how they kept Jenny Mayfield and Cathie Martin out of jail for not turning over what appears to be email responsive to subpoena. So if you now say that there are no emails missing, it means all that legal testimony the White House has given—some of it under oath—is incorrect. If you say that, Tony, you're just inviting someone to respond.

And respond Henry Waxman did.

Dear Mr. Fielding:

At today's White House press briefing, Deputy Press Secretary Tony Fratto was asked about allegations that White House e-mails have been lost from White House servers. He stated in response: "we have absolutely no reason to believe that any e-mails are missing."

This statement is contrary to information that the White House provided to the Committee staff in a briefing on September 19, 2007. At this briefing, the White House showed staff a chart indicating that there were 473 days for which various entities in the Executive Office of the President had no archived e-mails. According to the

chart, the days with no archived e-mails included:

**For the White House Office:** December 17, 2003, December 20, 2003, December 21, 2003, January 9, 2004, January 10, 2004, January 11, 2004, January 29, 2004, February 1, 2004, February 2, 2004, February 3, 2004, February 7, 2004, and February 8, 2004.

**For the Office of the Vice President:** September 12, 2003, October 1, 2003, October 2, 2003, October 3, 2003, October 5, 2003, January 29, 2004, January 30, 2004, January 31, 2004, February 7, 2004, February 8, 2004, February 15, 2005, February 16, 2005, February 17, 2005, May 21, 2005, May 22, 2005, May 23, 2005.

**For the Council on Environmental Quality:** 81 days, including the entire period between November 1, 2003 through January 11, 2004.

**For the Council of Economic Advisers:** 103 days, including the entire period between November 2, 2003 through January 11, 2004.

**For the Office of Management and Budget:** 59 days, including the entire period between November 1, 2003 through December 9, 2003.

**For the U.S. Trade Representative:** 73 days, including the entire period between February 11, 2004 through April 18, 2004.

The White House officials conducting the briefing took this chart with them. They also indicated that the White House was doing an additional analysis to determine whether the information in the chart was accurate. In a letter I sent to you on December 20, 2007, I asked for any new information or analyses about

the problem of missing e-mails. I have not received a response to this letter.

Mr. Fratto's statements have added to the considerable confusion that exists regarding the status of White House efforts to preserve e-mails. To help clarify the situation, I request your testimony and the testimony of Alan Swendiman, the Director of the Office of Administration, at a hearing on February 15, 2008, at 10:00 a.m. in 2154 Rayburn House Office Building.

See, I told you you were going to get the White House in trouble. Poor Fred Fielding, who survived the 18 minute gap, is going to have to come and testify about why all the legal representations the White House made in the past about missing emails are no longer operative.

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Update: Jeff says I can't forget Tony's asterisk.

\*As has previously been stated in the Declaration filed with the court on January 15, 2008, "a chart was created by a former employee within OA that purports to identify certain dates and EOP components for which the chart's creator appears to have concluded that certain EOP components were missing emails on certain dates in the 2003-2005 period." However, as we have also previously said, the Office of the Chief Information Officer (OCIO) "has reviewed the chart and has so far been unable to replicate its results or to affirm the correctness of the assumptions underlying it. Accordingly, th[e] [OCIO] has serious reservations about the reliability of the chart," which is why there is currently an independent effort to examine this issue further.