

HENRY'S DATES: TWO DATA POINTS FROM THE PLAME INVESTIGATION

Update: We're getting increasingly strong confirmations that the missing emails were discovered as part of the Plame matter, such as this line the AP's coverage of the story today:

The White House says the e-mail matter arose in October 2005 in connection with the Justice Department's CIA leak probe.

I promised I would consider the significance of the dates of missing email archives wrt the Plame investigation. But first of all, I wanted to look at two data points to establish what these dates offer us. As a reminder, here are the dates for which an entire White House office is missing email archives.

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.

The first, more simple data point I want to look at is the Mayfield-Martin email exchange that took place on October 1, 2003, but which wasn't printed out until February 2, 2006. When Jeff first saw the date and the Bates number on the

email exchange, he concluded that the email was probably one of the 250 pages worth of emails turned over to Patrick Fitzgerald on February 6, 2006—the emails that had not been archived properly. (Incidentally, we've only got two pages of the email, but it was apparently 13 pages when printed out, so presumably that leaves 237 more pages of emails that weren't discovered in earlier searches.)

Waxman's list appears to validate Jeff's conclusion: October 1 is indeed one of the days for which there were no OVP email archives.

Furthermore, the rest of the emails submitted as trial exhibits reinforce this argument. There's an October 1 email from Laura Mylroie to Mayfield passing on an awful Cliff May's "Valerie wasn't covert" column—but that email was printed out on October 1, kept in a file, then turned over as a hard copy. All other emails introduced as evidence come from earlier—when there are no complete days without email archives.

So Waxman's list explains the very limited set of emails entered into evidence at the trial. It does not, however, explain the other big email anomaly from the investigation, the seeming non-discovery of the Rove-Hadley email until Rove turned it over when he testified in October 2004. After all, the email was written on July 11, 2003, well before the earliest complete day when there was no archived White House email. So even though the White House was reusing all their backup tapes (so therefore there is no **backup** file of emails from July 11), there was still an **archive** of emails from that period, as the presence of emails from Cathie Martin written on July 11, but discovered in February 2004, apparently from the archived copy, shows.

That leaves several possibilities:

The email was turned over, and the prosecution team just never realized what it was. I still think this is unlikely, since the FBI was focusing on Rove from early on, was focusing on

Time from early on, and Fitzgerald's willingness to let Cooper limit his first testimony appearance to his conversation with Libby, which suggests he didn't know about the Rove-Cooper conversation at all.

The email was sent to and from RNC email addresses, and was destroyed by the RNC's "document retention" policy of purging all emails every 30 days, but the email remained on Rove's computer, but not Hadley's. Here's what Rob Kelner told Waxman about the RNC email retention practice.

According to Mr. Kelner, the RNC had a policy, which the RNC called a "document retention" policy, that purged all e-mails from RNC e-mail accounts and the RNC server that were more than 30 days old.

[snip]

Mr. Kelner's briefing raised particular concerns about Karl Rove, who according to press reports used his RNC account for 95% of his communications. According to Mr. Kelner, although the hold started in August 2004, the RNC does not have any e-mails prior to 2005 for Mr. Rove. Mr. Kelner did not give any explanation for the e-mails missing from Mr. Rove's account, but he did acknowledge that one possible explanation is that Mr. Rove personally deleted his e-mails from the RNC server.

So we know that, if the email was an RNC email, the RNC would not have Rove's side of it [Update: and, as Jeff reminds us, the first email available on the RNC server was the day after Rove's assistant printed out the email, which sure looks mighty suspicious], and probably wouldn't have one from Hadley, either, since they destroyed emails every thirty days. But this possibility is inconsistent with what we know of the RNC server, since Hadley has

never been included among the list of people who had an RNC email.

July 11 is one of the days for which the White House has only a partial archive of emails. The list Waxman gave is only a partial list of the complete days when there were no archived emails for a particular office of EOP. In addition, we know there are many more days during which the email archive is incomplete. So it's possible that July 11 is one such day, and that this email was among those not archived properly. If so, then once again, it would appear that the email remained solely on Rove's computer.

They were using personal accounts. Rove, at least, had a personal account in addition to his White House and RNC account. Perhaps Hadley did too. If they were using personal accounts, that might explain why the email was not found in a search (though *Hubris* specifies that it was printed off of Rove's White House computer).

I'm probably missing a possibility or two, which I hope you will correct. The point is, though, as we look at the dates on which we know no White House archive of emails exist, we should remember that the missing archives are just one of the several things that seem to be making White House email disappear.