

TWO REMINDERS: NOT AN AGENCY AND SEARCH TERMS

We've had a bit of discussion whether the White House has lost all its email because of some nefariousness—or because of rank incompetence. I'm still not claiming to know the answer to that question. But there are two data points I want to remind everyone of.

First, remember that the White House all of a sudden decided that the Office of Administration was no longer an agency at precisely the time when CREW started asking questions about the disappearing emails.

The Justice Department said Tuesday that records about missing White House e-mails are not subject to public disclosure, the latest effort by the Bush administration to expand the boundaries of government secrecy.

Administration lawyers detailed the legal position in a lawsuit trying to force the White House Office of Administration to reveal what it knows about the disappearance of White House e-mails.

They did so to support a claim that OA was not subject to FOIA, and therefore they could tell CREW to go Cheney itself. This, in spite of the fact that OA had FOIA materials on its website and responded to over 60 FOIA requests the previous year! (They tried to fix that little problem by throwing their website down the memory hole, though they have since recanted grudgingly, still claiming that they're not subject to FOIA, but retaining the proof that they're subject to FOIA on their website to comply with the Presidential Records Act.)

The argument is reminiscent of Cheney's Pixie

Dust argument, in which rewrote an Executive Order after the fact, also claiming he was not an agency, so as to claim he didn't have to tell anyone about his classification and declassification activities. Dick also apparently used this logic to explain how he insta-declassified a CIA spy's identity so he could out that spy to Judy Miller.

You see, this Administration does use such arguments for nefarious purposes.

The other data point to keep in mind, regarding the White House use of emails, is the RNC's attempts to hide damaging emails by use of rather silly search terms.

... the RNC counsel has proposed to limit the Committee's request by using narrow "search terms" to identify e-mails relevant to the Committee's investigation. On Monday, RNC counsel proposed eight search terms, such as 'political briefing," "Hatch Act," and "2008." While the "search term" approach was offered in good faith by the RNC counsel, it presents some serious problems. For example, the search terms proposed by the RNC would not have located a January 19,2007, e-mail from an official in Karl Rove's office to an official at the General Services Administration transmitting a copy of PowerPoint slides prepared by the White House that list the top 20 Democratic targets in 2008. That e-mail read: "Please do not email this out or let people see it. It is a close hold and we're not supposed to be emailing it around."

Shorter Mike Duncan: Honest, I'm sure if

Scott Jennings or Karl Rove used the RNC emails to hide their illegal political activities, they would have labeled their emails, "Hatch Act Violation." That's just the kind of nice guys they are. Though maybe you should also include the search term, "super double secret background." I hear that's what Rove uses when he illegally leaks the name of a CIA NOC.

As I pointed out last week, David Addington at least tried similar tactics when proposing search terms relating to the Plame investigation.

Neither of these data points proves the emails are missing for nefarious reasons. But it does suggest there's a pattern of behavior.