

# THOSE EVIL DEMS ARE PREVENTING BUSH FROM ARCHIVING PROPERLY

✖ I noted the other day that—after years of trying to limit the Bush Administration’s responsibilities under the Presidential Records Act—the Bush Administration had found religion and was insisting that it had to box up all the documents proving they acted improperly when they fired nine US Attorneys. Basically, the first thing they did after the new year was to send Judge Bates a status report describing their solemn duty to throw everything in boxes, hopefully to make it unavailable for five years (to be fair, DOJ—and not Dick Cheney—sent the status report, so this is only partly hypocritical).

Although the PRA generally restricts access to presidential records for a period of five years (or until the Archivist completes processing and organizing the records), and further restricts disclosure of certain categories of information for a period of up to 12 years when presidential records are requested under the Freedom of Information Act, see 44 U.S.C. § 2204, the PRA contains special-access provisions that are relevant here. First, “[n]otwithstanding any restrictions on access imposed pursuant to section 2204, . . . subject to any rights, defenses, or privileges which the United States or any agency or person may invoke, Presidential records shall be made available . . . pursuant to subpoena or other judicial process issued by a court of competent jurisdiction for the purposes of any civil or criminal investigation or

proceeding[.]” 44 U.S.C. § 2205(2)(A).  
Second, the same exceptions to  
restricted access apply to requests for  
access to presidential records of a  
former President by “an incumbent  
President if such records contain  
information that is needed for the  
conduct of current business of his  
office and that is not otherwise  
available.” Id. § 2205(2)(B).[my  
emphasis]

As I noted earlier this week, HJC believed—and  
Bates concurred—that putting these documents in  
boxes and requiring legalese to open them again  
might cause a bit of delay (not that that was  
the idea, I’m sure).

Sure enough, Bates was carried through on his  
concerns, and got both sides to stipulate that  
these documents will remain at the White House  
until the suit is done (and/or HJC gets their  
grubby paws on it).

Defendants will create a copy set of all  
materials responsive to the subpoenas,  
including both paper and electronic  
documents, in hard copy format to be  
stored, segregated, and maintained at  
the White House for use in this  
litigation until this litigation is  
finally resolved.

[snip]

The White House shall make provisions to  
ensure the Archivist maintains the  
original set of materials responsive to  
the subpoenas intact at a facility in  
Washington, D.C. until this litigation  
is finally resolved, under appropriate  
security and in a manner that will  
enable ready access to the materials, if  
necessary.

That’s all well and good and I’m grateful that  
Bates—who spent a number of years shielding

BushCo—remains on the side of transparency and oversight here.

But it's got me thinking. What **else** is BushCo busily boxing up, preparing to bury it for five or twelve years, unless we find a way to identify it and withhold it?