



March 20, 2023

Via Email - presidential.materials@nara.gov

ATTN: FOIA

Archival Operations Division – Vice Presidential Collections
National Archives and Records Administration
700 Pennsylvania Ave, NW, Room G7
Washington, DC 20408-0001

Freedom of Information Act Request: Biden’s Misplaced Vice-Presidential Records

Dear FOIA Officer,

America First Legal Foundation is a national, nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, and ensure due process and equal protection for all Americans, all to promote public knowledge and understanding of the law and individual rights guaranteed under the Constitution and laws of the United States. To that end, we file Freedom of Information Act (FOIA) requests on issues of pressing public concern, then disseminate the information we obtain, making documents broadly available to the public, scholars, and the media. Using our editorial skills to turn raw materials into distinct work, we distribute that work to a national audience through traditional and social media platforms. AFL’s email list contains over 55,000 unique addresses, our Twitter page has over 58,000 followers, the Twitter page of our Founder and President has over 419,000 followers, our Facebook page has 116,000 followers, and we have another approximately 31,700 followers on GETTR.

I. Background

As early as November 2022, attorneys for President Biden discovered classified documents from his time as Vice President at the Penn Biden Center for Diplomacy and Global Engagement.¹ Since then, Biden’s Vice-Presidential records have turned up in more locations, including at his residence in Wilmington, Delaware,² at his

¹ Jamie Gangel et al., *Classified Documents from Biden’s Time as VP Discovered in Private Office*, CNN (updated Jan. 9, 2023), <http://bit.ly/3JsCtTZ>; See Letter from James Comer, Chairman, H. Comm. on Oversight and Accountability, to Debra Steidel Wall, Acting Archivist of the United States (Jan. 10, 2023) (available at <https://bit.ly/3JKvuHv>).

² Adela Suliman & Devlin Barrett, *Where Biden Classified Documents Were Found, What Led to Investigation*, WASH. POST (updated Jan. 12, 2023), <http://bit.ly/3j05P33>.

vacation home in Rehoboth Beach, Delaware,³ and at his personal attorney's office in Boston, Massachusetts.⁴ Reportedly, the National Archives has taken steps to recover Biden's Vice-Presidential records.⁵ Under 44 U.S.C. § 2207, "Vice-Presidential records shall be subject to the provisions of the [Presidential Records Act] in the same manner as Presidential records."

II. Records Requested

1. All Vice-Presidential records that were located at the Penn Biden Center for Diplomacy and Global Engagement.
2. All Vice-Presidential records that were located at Biden's residence in Delaware.
3. All Vice-Presidential records that were located at Biden's vacation home in Delaware.
4. All Vice-Presidential records that were located at the office of Biden's personal attorney in Massachusetts.
5. All other records from Biden's vice presidency for which the Archivist had failed to assume responsibility immediately upon the conclusion of President Obama's term of office.

III. Processing and Production

The requested documents will be made broadly available to the general public, and this request is not being made for commercial purposes. AFL broadly disseminates information to the public regarding the operations and activities of the federal government, and its requests for fee waivers have been routinely granted by numerous federal agencies. If you have any questions about our request or believe further discussions regarding search and processing would facilitate more efficient production of records of interest to AFL, please contact me at FOIA@aflegal.org. If AFL's request for a fee waiver is not granted in full, please contact us immediately upon making that determination.

Also, AFL requests expedited processing of this request. In support thereof, AFL certifies its compelling need for expedited processing under 5 U.S.C. § 552(a)(6)(E)

³ Patrick Hauf, *Legal Experts Slam FBI's Failure to Search Biden's Rehoboth Home as Classified Documents Pile Up*, FOX NEWS (Jan. 23, 2023), <http://bit.ly/3XyK3T5>.

⁴ Colleen Long & Seung Min Kim, *Archives Wanted Boston Biden Docs, Not Believed Classified*, ASSOCIATED PRESS (Feb. 10, 2023), <http://bit.ly/3ZUIAI0>.

⁵ See, e.g., Jerry Dunleavy, *Archives Takes Different Approaches In Trump Vs. Biden Classified Document Scandals*, WASH. EXAMINER (Jan. 23, 2023); <http://bit.ly/3kzqkEa>; Letter from Debra Steidel Wall, Acting Archivist of the United States, to Ron Johnson, Ranking Member, S. Permanent Subcomm. on Investigations, and Charles E. Grassley, Ranking Member, S. Comm. on the Budget (Mar. 7, 2023) (available at <https://bit.ly/42nxqNy>).

and 36 C.F.R. § 1250.28(a). The story of Biden's Vice-Presidential records is a matter of widespread and exceptional media interest in which there exist possible questions that affect public confidence in the Government's integrity. The above-cited articles and congressional letters of inquiry demonstrate the widespread and exceptional media interest and public interest to learn which Vice-Presidential records had not been properly turned over to the National Archives upon the conclusion of President Obama's last term of office and to what extent this spill of classified materials may have risked harm to the national security of the United States.

Finally, AFL welcomes production on an agreed rolling basis to accelerate your release of responsive records. Please provide responsive records in an electronic format by email. Alternatively, please provide responsive records in native format or in PDF format on a USB drive to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

Thank you in advance for your cooperation.

Sincerely,

/s/ Michael Ding

Michael Ding

America First Legal Foundation