

**FOR THE RECORD ONLY**

Testimony of Anna K. Nelson  
Before the  
Information Policy, Census, and National Archives  
Subcommittee  
Oversight and Government Reform Committee  
Wednesday, April 23, 2008  
2154 Rayburn HOB  
2:00 P.M.

I am Anna K. Nelson, Distinguished Historian in Residence at American University. I am representing the National Coalition for History. The Coalition includes a large majority of the historical and archival organizations in the country including the three largest, American Historical Association, Organization of American Historians and the Society of American Archivists.

More than 25 years ago, a foundation funded committee formed to study the records of government in the computer age began its report with the sentence, "The United States is in danger of losing its memory." The committee's warning fell upon deaf ears. As a result, today we would have to rewrite that sentence to read, "The United States has now lost part of its memory."

The Electronic Communications Preservation Act is designed to preserve these records. All researchers in American history and government will benefit from this proposed legislation. As a representative of this history coalition, I would like to assure you of the strong support from the historical community.

I would like to concentrate today on presidential records since some of the most egregious failures of preservation have occurred in the White House. Although this administration has been especially negligent, the National Archives has noted missing e-mails in other administrations going back to President Reagan and including President Clinton. Fortunately, the e-mails of presidents Reagan, Bush and Clinton were recovered from back-up tapes. The George W. Bush e-mails have not been retrieved.

All those who research and write about public policy (including political scientists, experts in international relations, and independent scholars in various think tanks), must necessarily gravitate to presidential records. Since the end of World War II, more than sixty years ago, presidents have used their staffs to gradually subsume policy making within the federal government. Losing valuable records simply because they are not on paper will

leave us to reconstruct the history of policy making from unreliable memoirs, scattered agency records and the *New York Times*.

The failure to preserve White House electronic records, and indeed all federal records, is based on the assumption that electronic records don't really count. Accustomed to records being on paper, staffs dismiss their importance and reach for the delete key. Although not a perfect solution, this legislation, which requires records management controls of electronic records and gives the Archivist the ability to monitor the implementation of the controls, will substantially correct that assumption.

The problems in the White House as illustrated by the Bush administration are two-fold. One involves the losses that stem from changes in the archiving system. While that may appear as a one time problem, technology will continue to advance and administrations will continue to change systems. In planning the change, the Bush staff failed to protect the information that should have been archived. The White House staff also rebuffed warnings from the National Archives and their offer to try to retrieve the lost e-mails. Hundreds of days elapsed without any record of the e-mails sent by the White House staff. Adding to the problem, the e-mails disappeared just as important

decisions were being made concerning the decision to go to war in Iraq.

The second problem is illustrated by the use within the White House of e-mail accounts on the outside. This enabled public officials on to completely bypass the preservation of electronic records under the Federal Records Act. It is not necessary to believe in conspiracy theories to realize that the ability of 50 individuals to use the Republican National Committee address removed hundreds of e-mails and other electronic records from review and analysis of American citizens. Using outside e-mail addresses is a perfect way to protect information from public view ad infinitum.

There is no reason to believe that another White House will not follow suit. While this legislation does not specifically address the second problem, the presence of record management controls and the required annual certification by the Archivist should serve to remind public officials in the White House of their obligations.

When letter writing gave way to the telephone, researchers of public policy turned to agency paper records which were kept in convenient file folders that could, if containing historically valuable files, easily move to the Archives. Meanwhile, the National Archives began to drown

under the flow of these papers, and historians found themselves with infinite documentation that promised endless research. Now the telephone has been eclipsed by e-mail. The tide has turned. When historians and other researchers turn to these e-mails will they find empty files? Will we have a paperless world of information or will we lose information and the history of public policy along with the paper? It is this question that gives this legislation such importance.