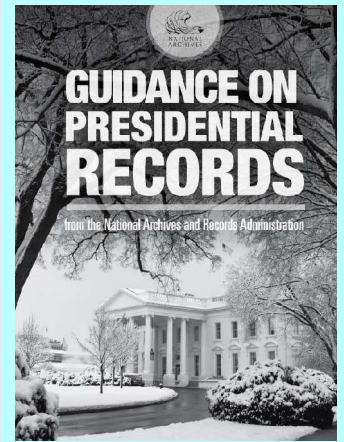


CIVICS IN REAL LIFE

Oversight & Classified Documents

Civics is all around us. There is a lot to know about the government and how "We the People" interact with the government and each other. Let's help each other expand our civic literacy.

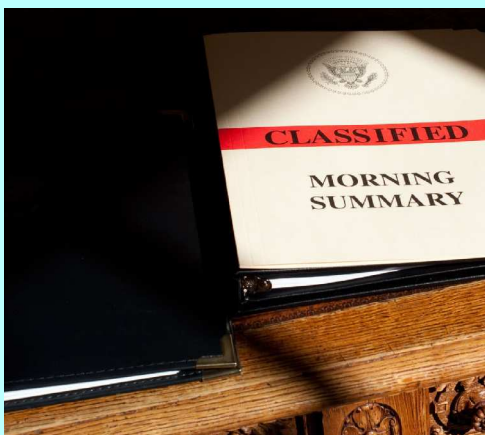


When it comes to the affairs of a government as large as the United States, a lot of paperwork is involved. Sometimes, the documents used in government business are classified. Through [Executive Order 12958](#) (1995), amended in March 2003 with [Executive Order 13292](#), a uniform system for classifying, safeguarding, and declassifying information was established. The president is the main overseer of the system. While our democratic principles require that the American people be informed of government actions, there are times when a degree of confidence must be maintained to protect our democratic institutions. How are classified documents supposed to be handled, and are the oversight protocols in place effective?

There are three levels of document [classification](#): "Top Secret", "Secret", and "Confidential". A list of individuals authorized to classify information, the criteria for classification, and rules related to handling and viewing classified materials, are included in Executive Order 12958, as amended. All classified documents receive a special [identification or marking](#). In 2009, the [National Declassification Center](#) was established inside the [National Archives](#) to help coordinate these processes. In addition to the provisions outlined in these executive orders, the [Presidential Records Act of 1978](#) helps guide the governance for the official records (both classified and unclassified but sensitive) of presidents and vice presidents. Beginning with President Reagan (1981-1989), ownership of all executive documents became public and managed by the National Archives. Key provisions of the Presidential Records Act include:

- Establishes public ownership of all presidential records and defines the term "presidential records".
- Requires that vice-presidential records be treated in the same way as presidential records.
- Places the responsibility for the custody and management of an incumbent president's records with that president.
- Requires that the president and their staff take all practical steps to file personal records separately from presidential records.
- Allows the incumbent president to dispose of records that no longer have administrative, historical, informational, or evidentiary value, once the approval of the Archivist of the United States on the proposed disposal has been obtained in writing.
- Establishes that presidential records automatically transfer into the custody of the Archivist as soon as the President leaves office.

While the exact number can not be determined, estimates place the number of classified documents at 50 million each year. While there are clear procedures surrounding classified documents and executive records, the reality is, that oversight tends to be weak and [declassification slow](#). It can be particularly challenging for top officials who are allowed to bring classified documents with them to various locations as they read them. That is different from most other government officials who must read classified documents in secure rooms. The accidental packing and taking of classified materials among retiring and/or senior administrative staff is common enough, that the National Archives has posted on their website [instructions](#) for steps to take when it happens.



Between May 2022 and January 2023, it [came to light](#) that current and former presidents Joseph Biden and Donald Trump, and former vice-president Michael Pence, each possessed classified materials. After not complying with a [subpoena](#), a search warrant was executed and an FBI search took place at the Mar-a-Lago home of former President Trump where more than 300 classified documents were discovered. Soon after, President Biden's attorneys found around 12 potentially classified documents from his time as vice president (2009-2017) when cleaning out an old office at the Penn Biden Center. These documents were immediately submitted to the National Archives. Subsequent voluntary searches revealed a few more documents at Biden's Delaware home that were acquired during his time serving in the U.S. Senate (1973-2009). More recently, former Vice-President Pence voluntarily turned over around a dozen classified documents found at his Indiana home, after he requested a search given recent events. The growing prevalence of these incidents among high-ranking individuals in the U.S. government has left the American public wondering how widespread the taking of classified documents is.

Attorney General Merrick Garland announced that separate [special counsels](#) have been appointed and investigations into all three cases will take place. Also, according to Republican

Representative and Chair Jim Jordan, the House Judiciary Committee [will investigate](#) the Justice Department's handling of the cases. Potential criminal charges could be forthcoming if any of the individuals are found in violation of the Presidential Records Act of 1978 or the [Espionage Act of 1917](#). The National Archives also requested that past presidents and vice-presidents thoroughly check to ensure they are not in possession of classified documents or presidential/vice-presidential records.

While the American public awaits answers from all three cases, questions remain. How many documents were taken? What information is contained in them? How did they end up in the locations they were found? Who else may have had access to them? While conversations are happening on how best to reform the process of handling classified documents, the power to do so ultimately lies with the president. Given the president is under investigation, time will tell whether or not changes will be forthcoming.

To Think and To Do: Would an increased use of electronic devices, holding digital copies of classified documents, eliminate the taking of classified documents and enable better oversight when presidential administrations end? Explain

Learn MORE

[Presidential Records Act](#), from the National Archives
[Basic Laws and Authorities](#), from the National Archives



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