

 CREW - citizens for responsibility and ethics in washington

## CREW Cuts

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### Update on CREW's Lawsuit Against the White House Over Millions of Missing E-mails

CREW has been busy pursuing its lawsuit to discover if the over ten million White House missing e-mails still exist. On March 6th, CREW asked U.S. District Judge Henry Kennedy to demand an explanation from the White House regarding inconsistencies between the January 2008 sworn declaration of Theresa Payton, chief information officer for the Office of Administration (OA), and White House documents released by the House Committee on Oversight and Government Reform at a hearing in late February 2008.



In her January 16th declaration, Payton wrote that "substantially all" e-mails from 2003 to 2005 likely were preserved on back-up computer tapes. In contrast, on February 26th, the House committee released White House documents showing that e-mails from the Office of the Vice President (OVP) are missing from the archives for a seven-day period in late 2003.

The committee also released a written statement from a former White House technical supervisor explaining that a 15-person team conducted an extensive multi-phase assessment that resulted in a final 250-page analysis on the problem of missing White House e-mails. In her sworn declaration, however, Payton had claimed all analysis of the problem rested in a single chart prepared by a lone staff person.

In addition, on March 12th CREW called on FBI Director Robert Mueller to open an investigation into whether White House officials obstructed justice by destroying documents relevant to the criminal investigation into the leak of Valerie Plame Wilson's covert CIA identity. According to documents released by the House Committee on Oversight and Government Reform, when OA employees sought to find e-mails from the OVP in response to a subpoena from Special Prosecutor Patrick Fitzgerald, there were no journaled e-mails on either the servers or a back-up tape for a critical period just after the Department of Justice had opened its criminal investigation and the White House had been ordered to preserve all potentially relevant documents.

Finally, in late March, in response to a request from the National Securities Archive, the federal court expanded its preservation order and U.S. Magistrate Judge John Facciola asked the White House to advise him in a sworn declaration what the costs and burdens would be of making forensic copies of hard drives. The White House responded by saying that all hard drives are destroyed every three years and the likelihood of any missing e-mails being found on the current hard drives was too insignificant to warrant the time and expense of creating copies.

We are waiting to see how Judge Kennedy and Magistrate Facciola respond.

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### CREW Calls for Gov. Spitzer to Resign, and Asks Why the Senate Has Not Held Sen. David Vitter Accountable for His Crimes

On March 10th, in light of reports that, in violation of federal law, New York Governor Eliot Spitzer (D) had arranged for a woman to travel from New York to Washington for the purpose of prostitution, CREW called on the governor to resign his post, the first non-partisan organization to do so. He announced his resignation two days later.

In the ensuing fallout, the National Republican Congressional Committee called on a number of Democrats to return contributions from the governor, but no similar call was made for Republicans to return contributions from Sen. Vitter (R-LA), who also has solicited for prostitution. [CREW released a list](#) of members of Congress who have received campaign contributions from Sen. Vitter..

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### CREW Calls House Independent Ethics Office a Paper Tiger

CREW long has advocated for the creation of an independent ethics office because the House Ethics Committee has proven useless. On March 11th, the House of Representatives passed a bill creating such an office, but refused to give the office subpoena power or allow outsiders, such as CREW, to file ethics complaints. Only members of Congress, who have demonstrated repeatedly that they won't file against one another, are permitted to file ethics complaints.

CREW opposed the new office because rather than providing for the vigorous enforcement of ethics rules, the House merely has created a new layer of bureaucracy to insulate members from the consequences of their unethical activities.

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