

From: perseverance2013@aol.com
To: unauthorizeddisposition@nara.gov; archivistoftheunitedstates@nara.gov; colleen.shogan@nara.gov; william.bosanko@nara.gov; john.valceanu@nara.gov; laurence.brewer@nara.gov; andrew.denham@nara.gov
Cc: jay.trainer@nara.gov; brett.baker@nara.gov; FOIAcompliance@gmail.com; perseverance2013@aol.com
Subject: NARA Unauthorized Disposition (UD) Complaint ICO June 8, 2023 FOIA Advisory Committee Meeting
Date: Monday, December 11, 2023 12:37:18 PM
Attachments: [UD Complaint. June 8, 2023 FOIA Advisory Committee Meeting w. attach.pdf](#)
Importance: High

[Best viewed as HTML. See PDF for full complaint, submitted upon information, belief, and records available to me.]

December 11, 2023

Subject: NARA Unauthorized Disposition (UD) Complaint ICO June 8, 2023 FOIA Advisory Committee Meeting

I. ALLEGATION.

“A member of the public (Robert Hammond) alleges that the Archivist of the United States and the NARA Director of Government Information Services may have destroyed FOIA Advisory Committee records of a June 8, 2023 FOIA Advisory Committee meeting, which it is mandated to have preserved under the Federal Advisory Committee Act and other laws regulations and policies :

“all panelist” chat comments as well as any direct comments to any member participating in the meeting, including OGIS support personnel and the conference moderator. This includes Committee members present at the virtual meeting. Others present or participating in the virtual meeting, including all registered participants”

Else records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction.”

I sought the above records via FOIA to NARA (NCG23- 504) on the third day following the meeting. In its FOIA response two months later, NARA admits that they destroyed the records:

“No records were found responsive to part 1 of your request.”

See Attachment A and Attachment B

II. ACTION SOUGHT.

1. Notify NARA within 5 business days as required by 36 CFR 1230.16.a.
2. Provide me with a point of contact by return email to discuss this matter.
3. Permit me to discuss the Agency’s reply prior to deciding on this complaint to preclude the likely provision of misinformation, as has been done in the past.
4. If the records have not been destroyed, seek that the Agency provide them to you as individual records.
5. Immediately post this UD complaint to the NARA website. In violation of law NARA

has refused to post UD complaints against NARA. See Attachment E.

III. UD COMPLAINT IN PUBLIC DOMAIN.

In violation of 36 CFR 1230 and the Administrative Procedures Act, NARA refuses to post and properly investigate prior complaints relating to NARA including an October 7, 2022 allegation that NARA destroyed records related to potential Hatch Act violations by the then Acting Archivist of the United States (**Debra Wall**) sought under FOIA (and others). NARA must demand the production to NARA of any records the agency claims it did not destroy.

This uneven application of law is particularly important given that NARA's Unauthorized Records Disposition Unit is at the center of two criminal investigations regarding unauthorized removal/retention of Presidential records by our current and former presidents.

Therefore, I will be distributing this UD complaint widely. I may address past UD complaints where NARA has utterly failed in its responsibilities. NARA's unauthorized records dispositions are overseen by Chief Records Officer **Laurence Brewer** laurence.brewer@nara.gov

IV. NARA GRS 4.2 Item 20

020	Access and disclosure request files. Case files created in response to requests for information under the Freedom of Information Act (FOIA), Mandatory Declassification Review (MDR) process, Privacy Act (PA), Classification Challenge, and similar access programs, and completed by: • granting the request in full • granting the request in part • denying the request for any reason including: o inability to fulfill request because records do not exist o inability to fulfill request because request inadequately describes records o inability to fulfill request because search or reproduction fees are not paid	Temporary. Destroy 6 years after final agency action or 3 years after final adjudication by the courts, whichever is later, but longer retention is authorized if required for business use.	DAA-GRS2016-00020001
-----	---	---	----------------------

V. 32 CFR PART 286—DOD FREEDOM OF INFORMATION ACT (FOIA) PROGRAM

32 CFR §286.6 Preservation of records.

Each DoD Component shall preserve all correspondence pertaining to the requests that it receives under this part, as well as copies of all requested records, until disposition or destruction is authorized pursuant to title 44 of the United States Code or the General Records Schedule 4.2 of the National Archives and Records Administration (NARA). Records shall not be disposed of or destroyed while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

VI. 36 CFR § 1230. UNLAWFUL OR ACCIDENTAL REMOVAL, DEFACING, ALTERATION, OR DESTRUCTION OF RECORDS

§1230.3

Unlawful or accidental destruction (also called unauthorized destruction) means disposal of an unscheduled or permanent record; disposal prior to the end of the [NARA](#)-approved retention period of a temporary record (other than court-ordered disposal under [§ 1226.14\(d\)](#) of this subchapter); and disposal of a record subject to a **FOIA request**, litigation hold, or any other hold requirement to retain the records.

VII. 44 U.S. CODE § 3106 - UNLAWFUL REMOVAL, DESTRUCTION OF RECORDS

(a)FEDERAL AGENCY NOTIFICATION.—

The head of each Federal agency shall notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, corruption, deletion, erasure, or other destruction of records in the custody of the agency, and with the assistance of the Archivist shall initiate action through the Attorney General for the recovery of records the head of the Federal agency knows or has reason to believe have been unlawfully removed from that agency, or from another Federal agency whose records have been transferred to the legal custody of that Federal agency.

(b)ARCHIVIST NOTIFICATION.—

In any case in which the head of a Federal agency does not initiate an action for such recovery or other redress within a reasonable period of time after being notified of any such unlawful action described in subsection (a), or is participating in, or believed to be participating in any such unlawful action, the Archivist shall request the Attorney General to initiate such an action, and shall notify the Congress when such a request has been made.

([Pub. L. 90–620](#), Oct. 22, 1968, [82 Stat. 1298](#); [Pub. L. 98–497, title I, § 107\(b\)\(21\)](#), title II, § 203(b), Oct. 19, 1984, [98 Stat. 2290](#), 2294; [Pub. L. 113–187, § 4](#), Nov. 26, 2014, [128 Stat. 2009](#).)

VIII. 18 U.S. Code § 1519 - Destruction, alteration, or falsification of records. (Added Pub. L. 107–204, title VIII, §802(a), July 30, 2002, 116 Stat. 800.).

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both.

IX. 18 U.S.C. 641 and 2071. The penalties for the unlawful or accidental removal, defacing, alteration, or destruction of Federal records or the attempt to do so, include a fine, imprisonment, or both (18 U.S.C. 641 and 2071).

This is submitted upon information, belief, and records available to me.

With my respect,

/s/

Robert Hammond
Whistleblower

Attachments

A. NARA FOIA Response to NGC23-540

- B. Hammond FOIA Request NGC23-540
- C. October 7, 2022 UD Complaint ICO Acting Archivist of the US. Hatch Act Violation Records
- D. NARA UD Complaint ICO NARA's OGIS Unlawful Deletion, Destruction of Chief FOIA Council Records
- E. Unauthorized Dispositions of Federal Records _National Archives – NARA TAB

-