



NATIONAL ARCHIVES *and* RECORDS ADMINISTRATION
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www.archives.gov

Sent Via Email. No Hard Copy to Follow.

November 9 , 2020

Mr. Maurice King
Department of Defense
Department of the Navy
1000 Navy Pentagon, 5E170
Washington, DC 22350
maurice.king@navy.mil

Dear Mr. King:

The National Archives and Records Administration (NARA) has been notified of a potential unauthorized disposition of records at the Department of the Navy. We have received an allegation that the Navy has improperly deviated from its records schedule by not updating General Records Schedule (GRS) instructions for FOIA records in its manual, SECNAV M-5210.1. It has been alleged that the Navy's use of outdated authorities has resulted in the early destruction of FOIA records, including records related to FOIA request: FOIA DON-NAVY-2019-011817 for case DON-NAVY-2015-002019. The requester has reported that the Navy denied this request stating a "no records" response despite responsive records being released under the same case.

NARA requests that the Navy investigate this matter to determine if the FOIA records were destroyed in accordance with the appropriate records disposition schedules; and whether its records manual contains correct disposition instructions. Please note, that per 36 CFR 1230.14, if records have been destroyed without NARA's proper authorization, destruction must cease and the agency must report these incidents promptly to NARA.

In accordance with 36 CFR 1230.16, NARA also requests that your agency provide NARA with a response within 30 days that includes a description of the records; the records schedule disposition citation that covers the files; details regarding the records destruction incident and recovery efforts; and a statement of the safeguards that have been or will be implemented to prevent future unauthorized disposals of such records. If you have any questions, please contact me at laurence.brewer@nara.gov.

Sincerely,

A handwritten signature in blue ink that reads "Laurence V. Brewer". The signature is written in a cursive style with a large initial 'L'.

LAURENCE BREWER
Chief Records Officer
for the U.S. Government

cc:
Gaye Evans, gaye.evans@navy.mil



Office of the Chief
Records Officer for the
U.S. Government

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December 6, 2021

Mr. Maurice King
Department of the Defense
Department of the Navy
1000 Navy Pentagon, 5E170
Washington, DC 22350
maurice.king@navy.mil

Dear Mr. King:

The National Archives and Records Administration (NARA) has received and reviewed the Department of the Navy's responses regarding NARA's request for further information pertaining to an allegation of the Navy's unauthorized destruction of FOIA records due to its improper deviation from records schedule authorities and the use of outdated disposition authorities (UD-2021-0004) resulting in a "no records" response to a FOIA request.

During your investigation, the Navy determined that as a result of its conduct of a "reasonable search," it provided the requester with copies of all applicable FOIA records. The agency has managed the official records in accordance with the applicable GRS authorities that were issued and in effect at the time of the request and did not unlawfully deviate from NARA-approved schedules. The FOIA records are also available in the Navy's FOIA tracking system. Further, the Navy found that financial and contracting records addressed in the allegation to NARA were not included in the original FOIA request and the subsequent FOIA appeal.

Through Navy's report and additional discussions with Navy's RM program, the agency has also addressed NARA's concern over a previous statement made by Navy's FOIA staff regarding the possibility of "significant risk to Navy activities" in following its internal SECNAV M-5210.1 manual to comply with NARA's records management regulations. The Navy's investigation into this matter determined that the agency's FOIA division has and continues to adhere to the correct scheduling authorities and the agency's manual is continually updated as new schedules are approved.

Based on the information that you provided, including information obtained during NARA's review, the reporting requirements of 36 CFR 1230.14 have been met. NARA considers this allegation of unauthorized disposition of agency records unfounded. If you have any questions, please contact me at laurence.brewer@nara.gov. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Laurence V. Brewer". The signature is written in a cursive style with a blue ink color.

LAURENCE BREWER
Chief Records Officer
for the U.S. Government