



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

Sent Via Email. No Hard Copy to Follow.

October 9, 2019

Ms. Jennifer Jessup
Office of the Chief Information Officer
Department of Commerce
14th St. and Constitution Ave. NW
Room 6625
Washington, DC 20230

Dear Ms. Jessup:

The National Archives and Records Administration (NARA) has become aware of a potential unauthorized disposition of U.S. Department of Commerce records. This allegation is based on an article published by the Washington Post on September 30, 2019 (see attached), which states that Commerce Secretary, Wilbur Ross, used personal email for official business.

The Federal Records Act, at 44 U.S.C. 2911(a), prohibits employees from creating or sending a record using a non-official messaging account unless the employee copies his or her official email account when the record is first transmitted, or forwards a complete copy of the record to the official email account within 20 days of the record's original transmission.

In accordance with 36 CFR 1230.16(b), NARA requests that the Department respond within 30 calendar days to the allegation. If it is determined that an unauthorized disposition of records has occurred, the response should detail specific actions the Department will take to address any failure to capture and preserve Federal records, and the steps the Department will take to mitigate future risk. Please indicate in your response if any records lost can be re-created, forwarded from the personal account in question, or duplicated from other sources.

In the absence of a formally designated Senior Agency Official for Records Management and an Agency Records Officer, we are directing this letter to you. Please feel free to forward and share this letter with anyone in the Department who can be of assistance in this matter.

Thank you for your cooperation.

Sincerely,

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

Attachment

cc. Michael J. Walsh Jr., Chief of Staff, MWalsh@doc.gov

Richard A. Dubik, Director of Administration, Office of Executive Secretariat, RDubik@doc.gov

Andre Mendes, Acting Senior Agency Official for Records Management, AMendes@doc.gov

Office of the Executive Secretariat, docexecsec@doc.gov

Office of the Chief Information Officer, dococio@doc.gov



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

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September 24, 2024

Mr. Brian DiGiacomo
Assistant General Counsel for
Employment, Litigation and Information
Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230

Dear Mr. DiGiacomo,

We have received the Department of Commerce's report in response to our request for information on August 11, 2023 where we requested 1) a report documenting the number of email records identified and migrated into federal custody and 2) policies and procedures implemented as safeguards to prevent reoccurrence.

We understand that the Department captured then-Secretary Ross's emails through two different methods. The first method was documented in the Department's initial report to NARA dated October 31, 2019, where the search was conducted of Commerce's email systems for communications between then-Secretary Ross's four personal email accounts and approximately 50 official Commerce email accounts. Using this method, the Department identified 280 email chains, 235 of these emails originated from third parties and the remainder were from the former Secretary to a member of his Department staff. Additionally, the Department searched its database of emails from 2017-2021 for any emails that included former Secretary Ross's personal email addresses. Including attachments to these emails, there are 1,766 records which were recovered and will be maintained as per applicable records schedules.

The Department also updated its Email and Electronic Messaging Policy on June 14, 2024. This updated policy reiterates the need for the need to use official/authorized email and messaging accounts for work-related communications unless there are exigent circumstances. In those instances, users are to archive federal records within 20 days of sending or receiving a message.

We reviewed the attachments you included in your report including the training provided to all incoming political appointees, which included information about general records management, the mandatory use of official government email to conduct official business, and the Freedom of Information Act.

Given that the Department has resolved its Freedom of Information Act litigation focused on then-Secretary Ross's use of personal email and based on all the information we received, we consider this matter to be resolved. I appreciate your attention to this matter. If you have any questions or wish to discuss this further, please contact the Records Management Oversight and Reporting Program by email at UnauthorizedDisposition@nara.gov.

Sincerely,

A handwritten signature in black ink that reads "William Fischer". The signature is written in a cursive, slightly slanted style.

WILLIAM FISCHER
Chief Records Officer
for the U.S. Government (Acting)

cc: Ryan A. Higgins, Chief Information Officer (Acting)
Terri Ware, Department of Commerce Deputy Chief Information Officer
Jennifer Jessup, Director, Office of Policy and Governance, OCIO
Cecelia Kizer, Departmental Records Management Officer, Office of Policy and Governance, OCIO
Allyson Deitrick, Chief, Information Law Division