



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

Sent Via Email. No Hard Copy to Follow.

February 1, 2022

Ms. Teresa S. Fitzgerald
Department of Justice
Federal Bureau of Investigation
Information Management Division
170 Marcel Drive
Winchester, VA 22602

Dear Ms. Fitzgerald,

The National Archives and Records Administration received your report of the unauthorized destruction of files that were relevant to a Freedom of Information Act (FOIA) civil suit, filed on April 24, 2013, against the Department of Justice that was seeking the administrative/processing records of 86 FOIA cases that are maintained within the FOIA Document Processing System (FDPS).

It is our understanding that on August 12, 2021, the Court ordered the FBI to submit a supplemental declaration describing the search for administrative records within FDPS. The FBI informed the Court on August 23, 2021 that they would be initiating a full review of prior search efforts for all FOIA cases subject to the litigation. Accordingly, the Records/Information Dissemination Section (RIDS), Information Management Division (IMD), commenced a review of election FOIA case files in FDPS.

While conducting this search, RIDS discovered that three of the 86 FOIA cases responsive to the ongoing litigation were no longer accessible and had been inadvertently destroyed during a routine records destruction conducted under the GRS 4.2, item 020, disposition authority. Attempts were initiated to reconstruct the destroyed files and, as a result of these attempts, two of these files were reconstructed from system backups and the remaining file was partially reconstructed from a different FOIA case file. A copy of the case notes and search slip was located but no correspondence or other administrative documents were located.

Currently RIDS analysts rely on a manual process to electronically flag within FDPS each FOIA case file subject to litigation. In this instance, the reason for the inadvertent destruction was human error as the flag was not properly applied.

While your report meets all the requirements outlined in 36 CFR 1230.14(a), this case will remain open pending receipt of further documentation on the implementation of the additional mitigation strategies referenced in your letter. This may include, but is not limited to, the revision of the standard operating procedures, documentation of procedural safeguards, implementation of updated training and the deployment of the automatic processing system. I appreciate your attention to this important matter. If you have any questions or wish to discuss further, please contact me at laurence.brewer@nara.gov.

Sincerely,

A handwritten signature in blue ink that reads "Laurence M. Brewer". The signature is written in a cursive, flowing style.

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

cc: Jeanette Plante, Department of Justice, Department Records Officer,
jeanette.plante@usdoj.gov



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April 20, 2022

Teresa S. Fitzgerald
Department of Justice
Federal Bureau of Investigation
Information Management Division
170 Marcel Drive
Winchester, VA 22602

Dear Teresa Fitzgerald,

The National Archives and Records Administration received the supplemental information we requested in our letter dated February 1, 2022, in response to your report of the unauthorized destruction of files that were relevant to a Freedom of Information Act (FOIA) civil suit, filed on April 24, 2013, against the Department of Justice that was seeking the administrative processing records of 86 FOIA cases that are maintained within the FOIA Document Processing System (FDPS).

We received the initial report from you on January 6, 2022, which explained that three of 86 cases responsive to ongoing litigation were no longer accessible and had been inadvertently destroyed during a routine records destruction. Subsequently, you were able to reconstruct two of those files and partially reconstruct the third. In our February 1, 2022 letter we requested further documentation on the additional mitigation strategies you planned to implement. In your response dated March 30, 2022, you documented several changes in order to mitigate the risk of recurrence of this issue including:

- Information Management Division's Records/Information Dissemination Section (IMD, RIDS) updated two standard operating procedures to include enhanced quality assurance procedures to identify and flag FOIA cases which are under legal hold or subject to other ongoing retention requirements.
- All RIDS personnel completing mandatory training in December 2021.

- IMD will maintain a backup copy of the records deleted from FOIA Document Processing System (FDPS) for one year to recover any cases which were not correctly flagged until the development and launch of a FDPS replacement system.
- IMD is collaborating with a vendor on a replacement for FDPS which will automate the flagging of cases which are under a legal hold or subject to other retention requirements. Once this system is functional, IMD will provide a demo of the system's capabilities to NARA.

Based on the information we have received, we consider this issue resolved. I appreciate your attention to this important matter. If you have any questions or wish to discuss further, please contact me at laurence.brewer@nara.gov.

Sincerely,

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

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

cc: Jeanette Plante, Department of Justice, Department Records Officer,
jeanette.plante@usdoj.gov