



NATIONAL ARCHIVES *and* RECORDS ADMINISTRATION  
8601 ADELPHI ROAD COLLEGE PARK, MD 20740-6001  
[www.archives.gov](http://www.archives.gov)

***Sent Via Email. No Hard Copy to Follow.***

October 29, 2018

Ms. Michelle Thomas  
U.S. Department of Justice  
Executive Office for United States Attorneys  
950 Pennsylvania Avenue, NW  
Washington, DC 20530  
[michelle.thomas@usdoj.gov](mailto:michelle.thomas@usdoj.gov)

Dear Ms. Thomas:

The National Archives and Records Administration (NARA) received an allegation of unauthorized disposition of federal records from Mr. Joel Schwartz of the law firm Stinson, Leonard, Street. The allegation pertains to the firm's client Mr. Daniel Troya and his case USA v. Varela, et al., Case No. 9:06-cr-80171-BB (SDFL). The allegation is specific to records related to a review of Mr. Troya's mental health status and history by neuropsychiatrist, Ray Lopez, M.D., seemingly employed on behalf of the government. The records may potentially be covered by N1-118-10-007, B1i.

As required in 36 CFR 1230.14, Federal agencies must promptly report to NARA any unauthorized removal or destruction of records. In accordance with 36 CFR 1230.16(b), NARA requests that EOUSA 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 EOUSA will take to address any failure to capture and preserve Federal records, and the steps the EOUSA will take to mitigate future risk. Please indicate in your response if any records lost can be re-created or duplicated from other sources.

Thank you for your cooperation. If you have any questions, please contact Dawn Sherman-Fells of the Records Management Oversight and Reporting Program at (301) 837-2083 or by email to [dawn.sherman@nara.gov](mailto:dawn.sherman@nara.gov).

Sincerely,

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

CC: Jeanette Plante, Director

Office of Records Management Policy  
Department of Justice  
Jeanette.Plante@usdoj.gov



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***Sent Via Email. No Hard Copy to Follow.***

December 4, 2018

Ms. Michelle Thomas  
U.S. Department of Justice  
Executive Office for United States Attorneys  
950 Pennsylvania Avenue, NW  
Washington, DC 20530  
[michelle.thomas@usdoj.gov](mailto:michelle.thomas@usdoj.gov)

Dear Ms. Thomas:

The National Archives and Records Administration (NARA) received your letter dated November 26, 2018, responding to an allegation of unauthorized disposition of federal records from Mr. Joel Schwartz of the law firm Stinson, Leonard, Street. The allegation pertained to the firm's client Mr. Daniel Troya and his case USA v. Varela, et al., Case No. 9:06-cr-80171-BB (SDFL). The allegation was specific to records related to the USAO's interactions with neuropsychiatrist Ray Lopez, M.D. to review defendant Daniel Troya's mental health status and history.

Mr. Schwartz outlined five allegations of unauthorized disposition of federal records. Upon investigation, the Executive Office for United States Attorneys (EOUSA) confirms that one incident of unauthorized disposition may have occurred, and accounts for the records associated with the other four allegations.

Records potentially lost due to improper records management practices include email communications of the USAO relating to Dr. Lopez's review and analysis of Mr. Troya's mental health records. EOUSA has a policy to print copies of any emails that should be part of a civil or criminal case file. In this case, the USAO did not print all emails related to Mr. Troya's case. EOUSA automatically retains all emails for a period of three years. After three years, any emails that are not otherwise marked for preservation are automatically destroyed. Because emails were not printed, nor was a litigation hold placed on relevant emails, it is possible that there are emails relating to Dr. Lopez's review of Mr. Troya's health that were automatically destroyed after three years.

Such emails cannot be re-created or duplicated from other sources. Any such email records would have been subject to permanent retention and eventually accessioned into NARA under N1-118-10-007, B1i.

To mitigate future incidents of loss EOUSA is taking various steps to ensure that email and other electronic federal records are preserved in accordance with the appropriate records retention schedule. EOUSA is holding a training in May 2019 for the records coordinators in all 94 U.S. Attorney's Offices. This training will include explaining the records retention requirements for electronic records, as well as how records coordinators should ensure staff within their individual USAOs comply with such requirements. In addition, EOUSA will work with management in the U.S. Attorney's Office for the Southern District of Florida to

create an office policy that lays out in detail the steps that staff need to take to ensure accurate records retention based on the type of case file. Once this policy is created, the USAO will hold an office-wide training for its staff to ensure all understand their obligations for records preservation and how to achieve those obligations.

NARA accepts your findings and risk mitigation strategy. However, we remain concerned about EOUSA records management practices and records schedule implementation. Please send us a copy of the detailed outline of your RM training planned for May 2019. Upon receipt of the training documentation, this case will be closed.

Thank you for your cooperation. If you have any questions, please contact Dawn Sherman-Fells of the Records Management Oversight and Reporting Program at (301) 837-2083 or by email to dawn.sherman@nara.gov.

Sincerely,

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

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

CC: Jeanette Plante, Director