

3/22/2016

National Archives & Records Administration Mail - Fwd: State review methodology



Fwd State review methodology.PDF

Hannah Bergman <hannah.bergman@nara.gov>

---

## Fwd: State review methodology

3 messages

Gary M Stern <garym.stern@nara.gov>

Thu, Apr 23, 2015 at 11:42 AM

To: "Semo, Alina" <alina.semo@nara.gov>, "Bergman, Hannah" <Hannah.Bergman@nara.gov>

See my edits of Paul's methodology. He needs this finalized today, so let me know if you'll have time to review.

Thanks,  
Gary

Gary M. Stern  
General Counsel  
National Archives and Records Administration  
8601 Adelphi Road  
College Park, MD 20740  
301-837-3026 (office)  
301-837-0293 (fax)  
garym.stern@nara.gov

----- Forwarded message -----

From: **Paul Wester** <paul.wester@nara.gov>

Date: Thu, Apr 23, 2015 at 11:15 AM

Subject: State review methodology

To: "Stern, Gary M" <garym.stern@nara.gov>, "Brewer, Laurence" <laurence.brewer@nara.gov>

Gary,

Attached is a lightly edited version of the proposed methodology that we will finalize between Laurence and me for the way forward starting tomorrow.

Also attached is the State methodology for your reference.

Today I plan to draft a letter to Peggy that follows the lines of Laurence's methodology and also states that our review is separate from our analysis of the alienation issue initiated by our March 3rd letter.

Please let me know what you think when you can today.

Thanks, Paul

Paul M. Wester, Jr.  
Chief Records Officer for the U.S. Government  
National Archives and Records Administration  
301-837-3120

---

### 2 attachments

 **PersonalCorrespondenceInstructions\_HRCEmail\_2015\_03\_02.pdf**

748K

NW: 15453 DocId: 70090729 Page 1

 **Review of Clinton Personal Email\_PMW edits.gms.docx**

90K

Fwd State review methodology.PDF

**Alina Semo** <alina.semo@nara.gov>  
To: GaryM Stem <garym.stem@nara.gov>  
Cc: "Bergman, Hannah" <Hannah.Bergman@nara.gov>

Thu, Apr 23, 2015 at 12:38 PM

Gary: I quickly reviewed and am slipping my comments under your office door before I have to leave for [REDACTED] - Alina

FOIA(b)(6)

Alina M. Semo  
Director of Litigation  
Office of General Counsel (NGC)  
National Archives and Records Administration  
8601 Adelphi Road, Suite 3110  
College Park, MD 20740-6001  
Phone: (301) 837-1499  
Fax: (301) 837-0293  
Cell: (301) 456-9185  
E-mail: alina.semo@nara.gov

**Confidentiality Statement:**

This message is transmitted to you by the Office of General Counsel of the National Archives and Records Administration. The message, along with any attachments, may be confidential and legally privileged. If you are not the intended recipient of this message, please destroy it promptly without further retention or dissemination (unless otherwise required by law). Please notify the sender of the error by a separate e-mail or by calling (301) 837-1499.

[Quoted text hidden]

**Hannah Bergman** <hannah.bergman@nara.gov>  
To: Alina Semo <alina.semo@nara.gov>  
Cc: GaryM Stem <garym.stem@nara.gov>

Thu, Apr 23, 2015 at 2:42 PM

Gary,

Here's my comments - really just questions.

As I said earlier, I'm still a bit confused about what the problem is.

FOIA(b)(5)

NW: 15453 DocId: 70090729 Page 2

Below is the language I was thinking of in Hillary's press conference:

Third, after I left office, the State Department asked former secretaries of state for our assistance in providing copies of work-related emails from our personal accounts. I responded right away and provided all my emails that could possibly be work-related, which totalled roughly 55,000 printed pages, even though I knew that the State Department already had the vast majority of them. We went through a thorough process to identify all of my work-related emails and deliver them to the State Department. At the end, I chose not to keep my private personal emails — emails about planning Chelsea's wedding or my mother's funeral arrangements, condolence notes to friends as well as yoga routines, family vacations, the other things you typically find in inboxes.

No one wants their personal emails made public, and I think most people understand that and respect that privacy.

Fourth, I took the unprecedented step of asking that the State Department make all my work-related emails public for everyone to see.

[Quoted text hidden]

---

 Review of Clinton Personal Email\_PMW edits.gms.hb.docx  
86K



Date: April 22, 2015  
To: Paul M. Wester, Jr., Chief Records Officer for the U.S. Government (AC)  
From: Laurence Brewer, Director, National Records Management Program (ACN)  
Subject: Review of Personal Clinton Email

Senior staff at the National Archives and Records Administration (NARA) will conduct a review of each individual email sent or received by Secretary of State Hillary Clinton that has been identified by the Department of State as a personal email and therefore not a federal record. As part of this review, NARA staff will validate whether the Department has correctly applied Federal statutes, regulations, and guidelines in making this determination.

#### SCOPE

FOIA(b)(5)-

NARA's review will be based on existing Federal standards and will be conducted using the following methodology.

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

#### STANDARDS

NARA staff assigned to review the collection of personal email records will refer to relevant NARA regulations and guidance that define personal files and how they should be maintained and managed:

*Personal files* (also called *personal papers*) are documentary materials belonging to an individual that are not used to conduct agency business. Personal files are excluded from the definition of Federal records and are not owned by the Government. (36 CFR 1220.18)

FOIA(b)(5)

*Records* include all recorded information, regardless of form or characteristics, made or received by a Federal agency under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the United States Government or because of the informational value of data in them. (44 U.S.C. 3301(a) (2014) Federal Records Act Amendments of 2014, Section 3301, P.L. 113-187)

#### METHODOLOGY

NARA staff reviewing the collection of personal emails identified by the Department should consider the following questions and guidance in making their determination on whether each individual email is appropriately identified as personal (see NARA's Disposition of Federal Records, 1997):

**Content.** Does the email contain only substantive information about agency business, or does it contain only information about the Secretary's personal matters? Does it contain both official and personal information?

**Purpose.** Was the email created to facilitate agency business, or was it created solely for personal convenience?

**Distribution.** Was the email distributed to other Department staff for an official purpose?

**Use.** Did other Department staff use the email or rely on the information in the email to conduct agency business?

**Segregation.** Can substantive agency information in the email be segregated from any personal information and extracted for filing in the larger collection of emails meeting the Federal definition of a record?

In addition to the above general guidance, NARA staff reviewing Secretary Clinton's personal email will assess information specific to each individual email, including:

- (a) The subject of the email, names of sender and all addressee(s), and date and time the message was sent. This information will facilitate evaluating the context of the message, and ensures each message can be uniquely identified and controlled;
- (b) Attachments to an email that may be an integral part of the record. This information may clarify whether a particular email is personal or related to official agency business; and
- (c) Number of pages of each identified email to verify the completeness and integrity of the collection.

With consideration to the above general and specific guidance, NARA staff will document its determination for each identified personal email. Using the Department's hard copy report (i.e., inventory) that lists each of the approximately 1,000-200 pages of personal emails, NARA will

either validate the Department's determination, or recommend that email(s) be returned to the larger collection of emails meeting the definition of a Federal record.

Each NARA reviewer will annotate the provided inventory as follows:

- (a) If the NARA reviewer agrees with the Department's determination of personal, NARA will initial and date the entry.
- (b) If NARA believes the email meets the definition of a Federal record, in ~~total~~ full or in part, the entry should be lined through on the report indicating that the email should be removed from the inventory of personal emails and returned to the larger collection. The entry should also be initialed and dated.
- (h)

Upon completion of the review, NARA will retain a photocopy of the inventory as evidence of its actions and decisions on the collection of emails identified as personal.

Formatted: Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"