



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

The Honorable Marco Rubio
Acting Archivist of the United States
National Archives and Records Administration
700 Pennsylvania Avenue NW
Washington, D.C. 20408

The Honorable Michael E. Horowitz
Inspector General of the Department of Justice
U.S. Department of Justice
Office of the Inspector General
950 Pennsylvania Avenue NW
Washington, D.C. 20530

February 28, 2025

Re: Notice of Unauthorized Deletion of Federal Records by DOJ

Dear Secretary Rubio and Mr. Horowitz:

Citizens for Responsibility and Ethics in Washington (CREW) writes to notify you of the possible unauthorized destruction of federal records by the Department of Justice (DOJ). Because it appears the DOJ has failed to report this matter to the National Archives and Records Administration (NARA) as required by the Federal Records Act (FRA), we are reporting it to you now and request that you review and take appropriate corrective action, if necessary.

On January 20, 2025, soon after taking office, President Trump rescinded a list of executive orders issued by former President Biden, including Executive Order 14074 on Advancing Effective, Accountable Policing and Criminal Justice Practices To Enhance Public Trust and Public Safety.¹ The executive order required the attorney general to establish a National Law Enforcement Accountability Database (NLEAD) as a “centralized repository of official records documenting instances of law enforcement officer misconduct.”² The database, which was established in December 2023, was hosted and managed by the DOJ

¹ Initial Rescissions Of Harmful Executive Orders And Actions, 90 FR 8237 (Jan, 20, 2025), <https://www.federalregister.gov/documents/2025/01/28/2025-01901/initial-rescissions-of-harmful-executive-orders-and-actions>.

² Executive Order on Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety, 87 FR 32945 (May 25, 2022), <https://www.federalregister.gov/documents/2022/05/31/2022-11810/advancing-effective-accountable-policing-and-criminal-justice-practices-to-enhance-public-trust-and>.

and accessible to all federal law enforcement agencies.³ As of September 20, 2024, the NLEAD included 4,790 records of federal officer misconduct.⁴ By enabling law enforcement agencies to access these records, the NLEAD helped prevent federal managers from unknowingly hiring law enforcement officers who had previously faced disciplinary action, suspension or termination as a result of their misconduct.⁵

Following the rescission of the executive order, the website for the NLEAD was reportedly taken down on January 24.⁶ The DOJ's Bureau of Justice Statistics also posted an update to its NLEAD webpage, stating that the database is "no longer active" and that the "Department of Justice is decommissioning the NLEAD in accordance with federal standards."⁷

This action by the DOJ appears to violate 44 U.S.C. § 3106 which requires:

(a) FEDERAL AGENCY NOTIFICATION.—The head of each Federal agency shall notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, corruption, deletion, erasure, or other destruction of records in the custody of the agency, and with the assistance of the Archivist shall initiate action through the Attorney General for the recovery of records the head of the Federal agency knows or has reason to believe have been unlawfully removed from that agency, or from another Federal agency whose records have been transferred to the legal custody of that Federal agency.⁸

Implementing this requirement, NARA regulations provide that an "agency *must report promptly* any unlawful or accidental removal, defacing, alteration, or destruction of records in the custody of that agency to NARA."⁹ The regulations also specify certain details the agency "must include" in its report to NARA.¹⁰ We are unaware of the DOJ complying with these requirements. The knowing and willful destruction of federal records is a crime punishable by fines and up to three years of imprisonment.¹¹

Further, NARA guidance indicates "much, if not all, documentation related to agency website operations should be managed as Federal records" and "can only be deleted with a

³ Shelley S. Hyland, National Law Enforcement Accountability Database, 2018–2023, Bureau of Justice Statistics, U.S. Dep't of Just., <https://bjs.ojp.gov/document/nlead1823.pdf>.

⁴ *Id.*

⁵ Tom Jackman and Elizabeth Dwoskin, *Justice Department deletes database tracking federal police misconduct*, Washington Post (Feb. 21, 2025), <https://www.washingtonpost.com/dc-md-va/2025/02/20/trump-justice-nlead-database-deleted/>.

⁶ *Id.*

⁷ Bureau of Justice Statistics, National Law Enforcement Accountability Database, <https://bjs.ojp.gov/national-law-enforcement-accountability-database#update>.

⁸ 44 U.S.C. § 3106.

⁹ 36 C.F.R. § 1230.14 (emphasis added).

¹⁰ *See id.* § 1230.14(a)(1)-(5).

¹¹ *See* 18 U.S.C. § 2071; 36 C.F.R. § 1230.12.

NARA-approved disposition authority.”¹² 44 U.S.C. § 3101 instructs the head of each federal agency to “make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency’s activities.”¹³ The NLEAD clearly qualifies as a federal record under this definition as establishing and maintaining the database was an essential function of the DOJ’s Justice Management Division.¹⁴ Additionally, 94 federal law enforcement agencies, including agencies within the DOJ, reported to the database and 90 of them were required to use it in their hiring procedures and decision-making processes.¹⁵ The database must be managed as a federal record and its deletion is subject to the § 3106 notice requirements.

Despite the agency’s requirement to notify the archivist of the deletion of these records, there is no indication that the DOJ reported this matter to NARA, and a list of open “unauthorized disposition cases” on NARA’s website does not reveal any such reporting.¹⁶ Given the DOJ’s apparent failure to report this matter to NARA as required by law, we are doing so now and request that NARA take appropriate action, including instructing the agency to issue a report in accordance with 36 C.F.R. § 1230.14 and § 1230.16.

The Department of Justice’s removal of the NLEAD and the vital information within it is likely a violation of federal law. We request that you promptly investigate this matter and take appropriate corrective action if necessary.

Sincerely,



Debra Perlin
Vice President for Policy
Citizens for Responsibility and Ethics in
Washington

cc: William P. Fischer, Acting Chief Records Officer, National Archives and Records Administration

¹² NARA, NARA Guidance on Managing Web Records Background, <https://bit.ly/42wEQRc>

¹³ 44 U.S.C. § 3101.

¹⁴ Shelley S. Hyland, National Law Enforcement Accountability Database, 2018–2023, Bureau of Justice Statistics, US Department of Justice, <https://bjs.ojp.gov/document/nlead1823.pdf>.

¹⁵ *Id.*

¹⁶ See NARA, Unauthorized Disposition of Federal Records, <https://bit.ly/39Vn12N>.