

From: Gary Stern <[REDACTED]nara.gov>
Sent time: 08/29/2022 10:18:30 PM
To: Shapiro, Elizabeth (CIV) <[REDACTED]usdoj.gov>
Subject: Re: [EXTERNAL] Filing

Got it.

On Mon, Aug 29, 2022, 10:02 PM Shapiro, Elizabeth (CIV) <[REDACTED]usdoj.gov> wrote:
Looks like tomorrow. But don't mention the Crim case on our 10 am call. It's very close hold.

Sent from my iPhone

> On Aug 29, 2022, at 8:43 PM, Gary Stern <[REDACTED]nara.gov> wrote:

>

>

> Let me know if and when you'll have something for me to review tonight, or tomorrow morning?

From: Gary Stern <[REDACTED]@nara.gov>
Sent time: 08/30/2022 03:41:43 PM
To: Shapiro, Elizabeth (CIV) <[REDACTED]@usdoj.gov>
Subject: Re: [EXTERNAL] Re: delete document I just sent you; another is coming
Attachments: ~WRD2956.jpg PRA Section (8.30.2022) COMBINED.gms.docx

Here's my markup.

Also, David Newman asked if I was available for a call this afternoon, which I assume is related to this issue and perhaps Marty's call?

Thanks

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
[REDACTED] (cell)
[REDACTED] (office)
[REDACTED] (fax)
[REDACTED] [nara.gov](mailto:[REDACTED]@nara.gov)



On Tue, Aug 30, 2022 at 2:47 PM Shapiro, Elizabeth (CIV) <[REDACTED]@usdoj.gov> wrote:

Sure, send it back to me and I'll make sure they get inputted in the version that goes into the brief.

From: Gary Stern <[REDACTED]@nara.gov>
Sent: Tuesday, August 30, 2022 12:41 PM
To: Shapiro, Elizabeth (CIV) <[REDACTED]@usdoj.gov>
Subject: Re: [EXTERNAL] Re: delete document I just sent you; another is coming

I've reviewed this draft, and made several mostly minor edits and fixed typos, and a few comments. Should I send that back to you, or wait on the next version?

Gary M. Stern

General Counsel
National Archives and Records Administration

8601 Adelphi Road

College Park, MD 20740
[REDACTED] (cell)
[REDACTED] (office)
[REDACTED] (fax)
[REDACTED] [nara.gov](mailto:[REDACTED]@nara.gov)

On Tue, Aug 30, 2022 at 11:14 AM Shapiro, Elizabeth (CIV) <[REDACTED]@usdoj.gov> wrote:

Will try to check binder while I'm at Main today. Meanwhile, go ahead and review what I sent you (attached again). Marty is going to call you today to discuss one of the issues we were talking about yesterday. We are resolving comments and tweaking, so it will be a little changed, but you can at least get a sense of where it is.

From: Gary Stern <[REDACTED]@nara.gov>
Sent: Tuesday, August 30, 2022 11:02 AM
To: Shapiro, Elizabeth (CIV) <[REDACTED]@usdoj.gov>
Subject: [EXTERNAL] Re: delete document I just sent you; another is coming

Okay.

Also, will you still be able to check the FBI Binder re the SCI question?

Thanks

Gary M. Stern
General Counsel
National Archives and Records Administration

8601 Adelphi Road
College Park, MD 20740

[REDACTED] (cell)
[REDACTED] (office)
[REDACTED] (fax)
[REDACTED]@nara.gov

[REDACTED]

[REDACTED]

On Tue, Aug 30, 2022 at 10:23 AM Shapiro, Elizabeth (CIV) <[REDACTED]@usdoj.gov> wrote:

|

From: Gary Stern <[REDACTED]@nara.gov>
Sent time: 08/30/2022 04:31:32 PM
To: Shapiro, Elizabeth (CIV) <[REDACTED]@usdoj.gov>
Subject: Re: newest draft
Attachments: PRA Section (8.30 150pm) (NSD).nara.docx

Just two edits: 1) a footnote to explain that NARA was part of GSA when that case was litigated; and 2) an attempt to remove the double negative and state a little more clearly what I think the last line in section C.1 is trying to say.

Please send me the as filed version, and let me know if you have any other questions.

Thanks

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
[REDACTED] (cell)
[REDACTED] (office)
[REDACTED] (fax)
[REDACTED] [nara.gov](mailto:[REDACTED]@nara.gov)



On Tue, Aug 30, 2022 at 4:10 PM Shapiro, Elizabeth (CIV) <[REDACTED]@usdoj.gov> wrote:

|

From: Gary Stern <[REDACTED]nara.gov>
Sent time: 09/12/2022 10:25:23 AM
To: Shapiro, Elizabeth (CIV) <[REDACTED]sdoj.gov>
Subject: Re: Stay response

Thanks -- just got it myself. Will read soon.

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
[REDACTED] (cell)
[REDACTED] (office)
[REDACTED] (fax)
[REDACTED] [nara.gov](mailto:[REDACTED]nara.gov)



On Mon, Sep 12, 2022 at 10:23 AM Shapiro, Elizabeth (CIV) <[REDACTED]sdoj.gov> wrote:

| FYI. Trump is now all in favor of the PRA ...

From: Gary Stern <[REDACTED]@ara.gov>
Sent time: 09/16/2022 04:05:26 PM
To: Shapiro, Elizabeth <[REDACTED]@usdoj.gov>
Subject: Appeal

Betsy, please let me know if and when DOJ plans to appeal Judge Cannon's decision.

Thanks,
Gary

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
[REDACTED] (cell)
[REDACTED] (office)
[REDACTED] (fax)
[REDACTED] [\[REDACTED\]@ara.gov](mailto:[REDACTED]@ara.gov)



From: Gary Stern <[REDACTED]@nara.gov>
Sent time: 09/16/2022 10:08:09 PM
To: Shapiro, Elizabeth (CIV) <[REDACTED]@usdoj.gov>
Subject: Re: 11th Circuit stay motion.

This is the district Court motion from last week. Please send the new one before the 11th Circuit, if you can.
And good luck with the game tomorrow.

On Fri, Sep 16, 2022, 9:29 PM Shapiro, Elizabeth (CIV) <[REDACTED]@usdoj.gov> wrote:

Sent from my iPhone

From: Gary Stern <[REDACTED]@nara.gov>
Sent time: 09/21/2022 01:57:40 PM
To: Shapiro, Elizabeth (CIV) <[REDACTED]@usdoj.gov>
Subject: Re: [EXTERNAL] Re: Sorry about that!
Attachments: ~WRD0002.jpg

I don't. That excerpt was sent to us by a journalist asking if we wanted to comment -- we did not.

I would hope the NSD folks can get it for you (and please send to me).

PS, it was Nancy Smith's office from where Berger took the documents. Current Acting Archivist Deb Wall had no involvement whatsoever.

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
[REDACTED] (cell)
[REDACTED] (office)
[REDACTED] (fax)
[\[REDACTED\]@nara.gov](mailto:[REDACTED]@nara.gov)



On Wed, Sep 21, 2022 at 1:55 PM Shapiro, Elizabeth (CIV) <[REDACTED]@usdoj.gov> wrote:

If you have the whole transcript, can you send it to me? Thanks!

From: Gary Stern <[REDACTED]@nara.gov>
Sent: Wednesday, September 21, 2022 10:26 AM
To: Shapiro, Elizabeth (CIV) <[REDACTED]@usdoj.gov>
Subject: [EXTERNAL] Re: Sorry about that!

FYI, here's an excerpt from the transcript from yesterday's Special Master meeting, by Trump attorney Trusty:

NARA essentially is a potential fact witness; they are an interested party. In fact, from even recent history, it's clear that this entity and the archivist himself or herself in recent history have been very politicized. Right now, it's the national archives people that put a warning label on the U.S. Constitution because they're concerned it will trigger people. It's the archivist who let Sandy Berger into her personal office to access important documents relating to 9/11 which he then stuffed down his pants before his misdemeanor plea a few months later.

So this is a group that has shown that even in the, you know, in the public setting that they're highly politicized. We think their conduct in this case is politicized as well. And so, it's an odd scenario to think that a special master, particularly, a special master with your Honor's background would have the need to get Presidential Records Act guidance, essentially, from a group like NARA.

PS, I'm watching the [confirmation hearing of the Archivist nominee](#), which also includes four nominees for the DC courts -- wish you were there!

Thanks,

Gary

Gary M. Stern

General Counsel
National Archives and Records Administration

8601 Adelphi Road

College Park, MD 20740

[REDACTED] (cell)

[REDACTED] (office)

[REDACTED] fax)

[REDACTED] gsdoj.gov

[REDACTED]

[REDACTED]

On Fri, Sep 16, 2022 at 10:25 PM Shapiro, Elizabeth (CIV) <[\[REDACTED\]@gsdoj.gov](mailto:[REDACTED]@gsdoj.gov)> wrote:

Sent from my iPhone

[REDACTED]

[REDACTED]

From: Gary Stern <[REDACTED]@nara.gov>
Sent time: 11/07/2022 05:23:59 PM
To: Shapiro, Elizabeth (CIV) <[REDACTED]@usdoj.gov>
Subject: Re: Draft MAL categorization response
Attachments: Draft MAL categorization response.nara.docx

See just a few minor edits and comments. It looks fine overall, with a caveat about gifts/books.

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
[REDACTED] (cell)
[REDACTED] (office)
[REDACTED] (fax)
[REDACTED] [nara.gov](https://www.nara.gov)



On Mon, Nov 7, 2022 at 3:58 PM Shapiro, Elizabeth (CIV) <[REDACTED]@usdoj.gov> wrote:

Gary,

Calling you to explain this now. It's time sensitive. Thanks!

From: Gary Stern [REDACTED] nara.gov>
Sent time: 11/08/2022 09:10:46 AM
To: Shapiro, Elizabeth (CIV) [REDACTED] usdoj.gov>
Subject: Re: Draft MAL categorization response

Give me a call when you can about this [article](#), which says that the Special Master "intends to get in contact with the National Archives and Records Administration to discuss the agency's 'practices and and guidance concerning the categorization of materials under the Presidential Records Act.'"

Does he know how to reach me, and is there anyone else in DOJ/NSD that I should be talking to about this?

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
[REDACTED] (cell)
[REDACTED] (office)
[REDACTED] (fax)
[REDACTED] [nara.gov](mailto:[REDACTED]@nara.gov)



On Mon, Nov 7, 2022 at 5:23 PM Gary Stern <[REDACTED]@nara.gov> wrote:

See just a few minor edits and comments. It looks fine overall, with a caveat about gifts/books.

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
[REDACTED] (cell)
[REDACTED] (office)
[REDACTED] (fax)
[REDACTED] [nara.gov](mailto:[REDACTED]@nara.gov)



On Mon, Nov 7, 2022 at 3:58 PM Shapiro, Elizabeth (CIV) [REDACTED] usdoj.gov> wrote:

Gary,

Calling you to explain this now. It's time sensitive. Thanks!

From: Gary Stern [REDACTED] nara.gov>
Sent time: 11/10/2022 02:00:02 PM
To: Shapiro, Elizabeth (CIV) [REDACTED] usdoj.gov>
Subject: Re: [EXTERNAL] Re: question
Attachments: ~WRD3689.jpg

Also, remember that [44 USC 2112\(c\)](#) (which is known as the Presidential Libraries Act) incorporates the Archivist's FRA records management authority (i.e., 2905) to Presidential records.

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
[REDACTED] (cell)
[REDACTED] (office)
[REDACTED] (fax)
[REDACTED] [nara.gov](#)



On Thu, Nov 10, 2022 at 1:56 PM Gary Stern <[REDACTED] [nara.gov](#)> wrote:
No, you only sent me the DOJ initial brief. Please do send me the Trump one.

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
[REDACTED] (cell)
[REDACTED] (office)
[REDACTED] (fax)
[REDACTED] [nara.gov](#)



On Thu, Nov 10, 2022 at 1:55 PM Shapiro, Elizabeth (CIV) <[REDACTED] [usdoj.gov](#)> wrote:

Our reply brief to the special master on "global issues". It's due Saturday. I sent you Trump's brief, right?

From: Gary Stern [REDACTED] [nara.gov](#)>
Sent: Thursday, November 10, 2022 1:52 PM
To: Shapiro, Elizabeth (CIV) <[REDACTED] [usdoj.gov](#)>
Subject: [EXTERNAL] Re: question

We cite to both. 2905 is in the chapter on the Archivist's responsibilities ("Records Management by the Archivist of the United States"), whereas 3106 is in the chapter on "Records Management by Federal Agencies." They are meant to complement each other.

What's the context?

Gary M. Stern

General Counsel
National Archives and Records Administration

8601 Adelphi Road

College Park, MD 20740

██████████ (cell)

██████████ (office)

██████████ (fax)

██████████ nara.gov

██████████

██████████ || ██████████ || ██████████ || ██████████ || ██████████

On Thu, Nov 10, 2022 at 1:48 PM Shapiro, Elizabeth (CIV) ██████████ usdoj.gov> wrote:

Which is the correct statute to rely on for the Archivist's procedure of notifying the agency and AG to recover records? 44 U.S.C. 3106 (FRA)? Of 44 USC 2905 ("Establishment of standards for selective retention of records; security measures.") They are both similar/nearly identify procedures.

From: Gary Stern [REDACTED] nara.gov>
Sent time: 11/18/2022 02:22:31 PM
To: Shapiro, Elizabeth (CIV) [REDACTED] usdoj.gov>
Subject: Re: [EXTERNAL] Re: question
Attachments: ~WRD2188.jpg

FYI, I have not heard from the Special Master, yet.

Any idea who the Special Prosecutor will be?

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
[REDACTED] (cell)
[REDACTED] (office)
[REDACTED] (fax)
[REDACTED] [nara.gov](mailto:[REDACTED]@nara.gov)



On Thu, Nov 10, 2022 at 2:01 PM Shapiro, Elizabeth (CIV) [REDACTED] [usdoj.gov](mailto:[REDACTED]@usdoj.gov)> wrote:

Here it is. It's really out there. He claims to have classified all the documents as personal as evidenced by the fact that he took them.

From: Gary Stern <[REDACTED]@nara.gov>
Sent: Thursday, November 10, 2022 1:57 PM
To: Shapiro, Elizabeth (CIV) [REDACTED] [usdoj.gov](mailto:[REDACTED]@usdoj.gov)>
Subject: Re: [EXTERNAL] Re: question

No, you only sent me the DOJ initial brief. Please do send me the Trump one.

Gary M. Stern
General Counsel
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740
[REDACTED] (cell)
[REDACTED] (office)
[REDACTED] (fax)
[REDACTED] [nara.gov](mailto:[REDACTED]@nara.gov)

[REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

On Thu, Nov 10, 2022 at 1:55 PM Shapiro, Elizabeth (CIV) <[REDACTED]@usdoj.gov> wrote:

Our reply brief to the special master on “global issues”. It’s due Saturday. I sent you Trump’s brief, right?

From: Gary Stern <[REDACTED]@nara.gov>
Sent: Thursday, November 10, 2022 1:52 PM
To: Shapiro, Elizabeth (CIV) <[REDACTED]@usdoj.gov>
Subject: [EXTERNAL] Re: question

We cite to both. 2905 is in the chapter on the Archivist's responsibilities ("Records Management by the Archivist of the United States"), whereas 3106 is in the chapter on "Records Management by Federal Agencies." They are meant to complement each other.

What's the context?

Gary M. Stern

General Counsel
National Archives and Records Administration

8601 Adelphi Road
College Park, MD 20740

[REDACTED] (cell)

[REDACTED] (office)

[REDACTED] (fax)

[REDACTED] [\[REDACTED\]@nara.gov](mailto:[REDACTED]@nara.gov)

[REDACTED]

[REDACTED]

[REDACTED]