

(Note to Supervisors: Please ensure that employees without access to electronic mail receive a paper copy of this message.)

April 5, 2006

Memorandum

To: All DOI Employees

From: Associate Deputy Secretary //James E. Cason//

Subject: Reminder of Document Retention and Anti-Retaliation Orders

It is useful to be reminded periodically of some of the various requirements imposed by statutes, regulations, formal policies, and court orders.

First, as you already know from the mandatory “NOFEAR Act” training you participated in last year, federal law already prohibits retaliation against employees for providing information or testimony about alleged improper activity or wrongdoing.

Please review the attached court order issued in *Cobell v. Norton* in 1999, which enjoins the Department from retaliating or threatening to retaliate against witnesses or persons named as potential witnesses who provide information or testimony in this litigation. The conduct enjoined by this order is not materially different from the conduct already proscribed by federal law. The order simply adds an additional consequence for such conduct by providing a basis for contempt sanction against any person engaging in it.

In our efforts to make federal operations sound and effective, it is important to have open and secure communications with all employees. When employees have the opportunity to voice concerns, express alternative ways to accomplish work, or to convey observations regarding illegal, immoral or unethical behavior, our organization will be able to improve. Please join me in ensuring all of our employees can speak openly and truthfully without fear of retaliation or adverse consequence.

In addition, employees are reminded of the court order issued in *Cobell* the entitled “Order Regarding Interior Department IIM Records Retention.” The Order requires the Department to retain all documents and data relating to Individual Indian Money (IIM) trust funds and Individual Indian trust assets, as defined in Attachment A of the Order.

DOI employees are reminded that records (Indian fiduciary trust records and general program records) are to be retained. DOI employees undertaking Indian fiduciary work need to be particularly careful to ensure all records related to the trust are properly created, maintained and stored properly. No fiduciary trust record, involving tribal or individual Indian beneficiaries, may be damaged, discarded or destroyed for any reason.

However, the court order also states that it is not intended “to prevent the disposal of...materials which are not records as defined in 44U.S.C. 3301.” If you plan to dispose of “materials” please ensure that 1) you are disposing of a copy; or 2) you are disposing of a non-record. If you plan to dispose of a copy, you must ensure that an original record exists and that it is properly safeguarded. If the original records do not exist, then a copy needs to be designated as an original record that is properly stored, then other copies may be discarded. A copy that has been altered (i.e., notes, edits, commentary etc.) may be a separate record that may need to be retained.

DOI employees are reminded that when Indian records become inactive (no longer needed to fulfill current business needs) they need to be properly boxed and shipped to the American Indian Records Repository, in Lenexa, Kansas. The records will be stored in an archival quality facility, operated by the National Archives and Records Administration.

If you are unsure whether any particular document must be retained, consult with your supervisor, the Office of Trust Records or the Office of the Solicitor. If still in doubt, please err on the side of retention. Thank you for your continued support on these requirements.



Court's 05-21-99 Order re Cobell Litg Anti-Retaliation.pdf Courts 08-12-99 Order re DoI IIM Records Retention.PDF