

So Just How Long Should You Keep Your Records?

Ed Claughton

How long should you keep records and data? While the simple answer is refer to your state's records retention schedules, the reality is there are several things to consider before destroying your agency's information. This includes not only following the law but also ensuring 1) policy is in place and is followed, and 2) you balance the need to keep the information against the liability inherent in holding on to it. The tendency in law enforcement is to retain records longer than necessary. While some information may retain informational or intelligence value longer than other more routine records, it is important to recognize that if a record exists, it can be requested. If it is public record, then it must be released and this is where a balancing act between competing needs comes into play. Before exploring this concept one must first understand the methodologies of dispositioning.

Of importance to remember when it comes to records disposition (the formal process of analyzing, identifying, and destroying eligible records) is that information is not just on paper and/or computers but also on backup tapes, servers, or disks. Regardless of which media you are dealing with, the rules are the same. Don't forget these additional formats exist and be sure to apply the same retention schedules to all of them unless your state law says otherwise. Some states may indicate to keep one format longer than the other in certain circumstances. Check with your state division of library, archives, or information services for guidance. The destruction of records is not something to take lightly. Those tasked with this responsibility should be trained in records management and have intimate knowledge of this potentially high liability issue. It is equally important that records which need to be retained are not inadvertently destroyed as are records that should be destroyed are not unconsciously retained.

Upon determining what state law indicates it is imperative to have a written policy which not only mirrors your state retention schedules but also dictates the methodologies of carrying out a systematic process of records disposition agency wide. This includes the who, what, when, where, and how of destruction. Who is responsible for this process, what is to be destroyed, and when, where, and how? Acceptable methods are also determined by law and may include shredding or burning. Depending on the size of the agency it is prudent to distribute this responsibility among “records liaisons” who represent different components such as units, divisions, or bureaus. One person should be assigned and trained in this process from each area who in turn reports to the records manager the outcome of the annual disposition process including what was destroyed and how much. This information is always recorded on official forms provided by the appropriate governing body and submitted accordingly.

The annual process of destroying records is a much simpler process if they are filed and stored in such a manner that makes them readily identifiable as being eligible for destruction. This is accomplished by indexing records in a systematic numeric fashion in which similar records are grouped and stored together according to their dates and content. Typically, incidents, arrests, accidents, and administrative documents are stored together. However, if your state allows for the containerization of records, this is an additional step that should be taken. Under the container theory, different types of records which are related to the same case can be filed together and destroyed together according to the retention schedule of the item which has the longest retention requirement. Using a robbery case as an example which has an incident report, an arrest, a property sheet, booking photo, and statement form, these are all items which individually may have different retention schedules. However if they are filed together in the same “container”, they may be destroyed simultaneously despite their individual retention schedules which otherwise would have to be followed had they been filed individually. Again be sure to check with your state’s records authority.

Lastly, the destruction of records involves a balancing act between the need to maintain law enforcement intelligence, to avoid liability, and to comply with accreditation

standards if applicable. Agencies should consider whether or not they can and should keep records longer than what state law requires.

The need for investigative intelligence is important and records are often a critical source of information that is needed to put the pieces of a puzzle together, especially in today's world of ongoing concerns of terrorism. Conversely, it is just as important to recognize that the very records law enforcement agencies create to protect themselves and justify their actions are the same records which are used as evidence against them when they get sued. If records don't otherwise have a need to be retained and are eligible for destruction, they should be destroyed as soon as possible.

In conclusion, the destruction of records is governed by law and should be a process that is taken seriously. It is an issue which should be built into the organizational culture as one that everyone is in part responsible for. The records lifecycle has a beginning and an end which if handled properly will reduce costs, make access easier, and limit liability.

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