

**ARIZONA PROSECUTING ATTORNEYS'
ADVISORY COUNCIL**

JANUARY 27, 2012 COUNCIL MEETING

AGENDA ITEM COVER SHEET

AGENDA ITEM #: VII

SUBJECT: State Record Retention Project

TYPE OF ACTION REQUESTED:

- Formal Action / Motion
- Information Only
- Other

ATTACHMENT(s):

- Yes
- No

Records Retention Schedule for All Public Bodies
Legal Records
Civil Records

<u>Item #</u>	<u>Records Series</u>	<u>Retention (Yrs.)</u>	<u>Remarks</u>
1.	Routine Matter Records (may include, but not limited to aviation; bankruptcy; bid disputes; bond forfeitures; chronological files; commitment cases; employment law; fair housing; forcible detainers; garnishments; general litigation; interpleader; investigations; liability defense (SIR); licensing; privilege license tax; orders to show cause; tort; public fiduciary; reference and example records; and revenue and collection records; tax appeal and tax condemnation) a. Litigation records b. Advice records	5 5	After final disposition of case After fiscal year advice given but no more than 10 years after fiscal year advice given
2.	AHCCS eligibility; bond approval; foreclosure cases; condemnation; escheats; judgments and school district boundary change records	10	After final disposition of case
3.	Long Term Reference Matter Records (including eminent domain, franchise records, and revocable permits)	30	After final disposition of case
4.	Significant Matter Records and Cases deemed Historically Significant by the Superior Court (including environmental issues, water rights and zoning cases)	Permanent	Preserve pursuant to ARS §39-101
5.	Routine Contract Records (may include but not limited to advice on construction contracts, advice	6	After reviewed

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	on IGA's and ISA's, advice on procurement contracts)		
	a. Contract accepted	6	After contract expired, cancelled or revoked or after administrative value has been served, whichever is later
	b. Contract not accepted	5	After final review or after administrative value has been served, whichever is later
6.	Significant Contract Records (including advice on contracts with loans)	10	After final review
7.	Child Support Records	4	After youngest child's 18 th birthday, court order, dismissal or court closing or settlement, whichever comes first
8.	Claim Records (without complaint)	2	After claim filed
9.	Formal Legal Opinions	10	After opinion given or after reference value has been served, whichever is later
10.	Litigation and Claim Records involving Minor Children	20	After date of birth of minor child
11.	Voting Right Submission Records sent to U.S. Department of Justice (including redrawing boundaries or voting districts, precincts, and other related records)	13	After fiscal year created or received

Records Retention Schedule for All Public Bodies

Legal Records

Contract Attorney Records

(administrative records only, follow appropriate schedule for case files)

<u>Item #</u>	<u>Records Series</u>	<u>Retention (Yrs.)</u>	<u>Remarks</u>
12.	Invoices and Supporting Documentation a. Capital cases b. All other cases	1 1	After notification of death After contract expired, cancelled or revoked
13.	Correspondence a. Attorney b. Expert Witness c. Pro Per	1 - 1	After contract expired, cancelled or revoked After administrative value has been served After fiscal year sentencing occurred
14.	Request for Expenditures	6	After contract expired, cancelled or revoked

Records Retention Schedule for All Public Bodies
Legal Records
Criminal Prosecution Records

<u>Item #</u>	<u>Records Series</u>	<u>Retention (Yrs.)</u>	<u>Remarks</u>
15.	Appellate Cases to State Supreme Court, Court of Appeals or 9 th Circuit Court of Appeals – Brief Bank a. Historically Significant	Permanent	Preserve pursuant to ARS §39-101
	b. All other cases	25	After date of last finding or ruling by court
16.	Bad Check Records a. Criminal Complaint Records (work copies)	1	After case adjudicated or after notification of death, whichever comes first
	b. Case Records i. With complaint	3	After final disposition of case and final restitution is paid or after notification of death, whichever comes first
	ii. Without complaint	1	After final disposition of case and final restitution is paid or after notification of death, whichever comes first
	c. Restitution Accounting Records and Reports	3	After fiscal year payment made
17.	Cases with Death Penalty Verdict/Sentence (including defendant on death row; defendant executed; defendant dies of natural causes prior to execution; and defendant is resentenced to life, lesser term or overturned)	Permanent	Preserve pursuant to ARS §39-101
18.	Criminal and Civil Asset Forfeiture Cases a. Submitted and turned down with no expectation of prosecution	3	After date of turn down
	b. Concluded by plea agreement, judgment or verdict	7	After expiration or conclusion of appeal(s) and/or restitution
	c. High public profile or of historical interest	Permanent	Preserve pursuant to ARS §39-101

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<u>Item #</u>	<u>Records Series</u>	<u>Retention (Yrs.)</u>	<u>Remarks</u>
19.	Dismissals Without Prejudice, and Dismissals With Plea		
	a. Class 1 Felonies	35	After order of dismissal
	b. Class 2-3 Felonies	7	After order of dismissal
	c. Class 4-6 Felonies	3	After order of dismissal
	d. Sex Crimes Offenses	35	After order of dismissal
	e. Misdemeanors and Petty Offenses	4 months	After order of dismissal
20.	Dismissals With Prejudice and Acquittals		
	a. Class 1 Felonies	10	After order of dismissal
	b. Sex Crimes	Not less than 7 and not more than 35	After order of dismissal
	c. Class 2-6 Felonies except Homicides and Sex Crimes Felony Offenses	Not less than 1 and not more than 7	After order of dismissal
	d. Misdemeanor and Petty Offenses	4 months	After order of dismissal
	e. Diversion Dismissals	Not less than 2 mos. and not more than 5 yrs.	After completion of diversion program or after notification of death, whichever comes first
21.	Completed Cases		
	a. Class 1 Felonies	35	After completion of sentence or after notification of death, whichever comes first
	b. All other Homicides	1	After completion of sentence or after notification of death, whichever comes first
	c. Sex Crime Felony Offenses	35	After completion of

Records Retention Schedule for All Public Bodies
Legal Records
Legal Advocate/Legal Defender/Public Defender Records

<u>Item #</u>	<u>Records Series</u>	<u>Retention (Yrs.)</u>	<u>Remarks</u>
28.	Juvenile Civil Case Records		
	a. Appeals	7	After final disposition or when client's youngest child reaches 18 years of age, whichever comes first; or after notification of client's death
	b. Dependencies/severance	7	After final disposition of case or when client's youngest child reaches 18 years of age, whichever comes first; or after notification of client's death
	c. Landmark/historical cases	Permanent	Preserve pursuant to ARS §39-101
29.	Extraditions		
	a. Contested	5	After final disposition of case or 2 years after discharged from probation, whichever is later
	b. Uncontested	1	After final disposition of case
30.	Mental Competency (non-restorable, does not apply to juveniles)	-	After notification of death
31.	Case Records and/or Post Conviction Relief (PCR) Records (including client sign-in sheets and trust fund records)		
	a. Death penalty, homicides and life time probation (including appeals)	-	After notification of death
	b. All other felonies	10	After final disposition of case or after notification of death
	c. Misdemeanors		
	i. DUI	5	After final disposition of case or discharged from probation, whichever is later; or after notification of death

Records Retention Schedule for All Public Bodies
Legal Records
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<u>Item #</u>	<u>Records Series</u>	<u>Retention (Yrs.)</u>	<u>Remarks</u>
	ii. All others	2	After final disposition of case or discharged from probation, whichever is later; or after notification of death
	d. Appeals (except death penalty, homicide or life time probation)	5	After appellate decision or 2 years after sentence completed or discharged from probation, whichever is later; or after notification of death
	e. Bench warrants	1 month	After date of administrative order dismissing warrant or after notification of death, whichever comes first
	f. Dismissals		
	i. Class 1 felony	-	After notification of death
	ii. Class 2-6 felony	7	After dismissal order issued
	iii. Misdemeanor	1	After dismissal order issued
	iv. Petty offense	6 months	After dismissal order issued
	g. Involuntary Committal records	5	After final disposition of case or after notification of death, whichever comes first
	h. Sex Crime cases	10	After final disposition of case or after notification of death, whichever comes first
	i. Landmark/historical cases	Permanent	Preserve pursuant to ARS §39-101
	j. All other cases	4	After final disposition of case

Records Retention Schedule for All Public Bodies

Legal Records

Victim Records

<u>Item #</u>	<u>Records Series</u>	<u>Retention (Yrs.)</u>	<u>Remarks</u>
32.	Intake Sheets	2	After calendar year created or received
33.	Post Conviction Notifications	2	After created or received
34.	Property Case Records	-	After final disposition of case
35.	Victim Compensation Program Records (including applications, police reports and board decisions)		
	a. Approved	5	After cap has been reached or 99 years after application approved, whichever is later
	b. Denied or Incomplete	3	After denied
36.	Victim Services Field Case Records		
	a. Class 1 Felonies	25	After final disposition of case
	b. All other records including juveniles	5	After final disposition of case
37.	Witness Client Records		
	a. First degree homicides	15	After date final disposition of case
	b. All others	5	After date final disposition of case

Supersedes schedules Counties/County Attorney dated November 5, 2001; Counties/Public Defender dated November 5, 2001; and Municipalities/Attorney dated April 4, 2002

Note: This schedule does not apply to any Arizona court. Their retention periods are set by the Arizona Supreme Court.

Questions/Comments on Draft 1:

Thanks for all the input on this schedule. I think I have corrected all the typos and grammatical problems, but I wouldn't swear to it. Below I have complied all the questions and comments that I received and I have tried to address them all. They are broken down into general questions/comments and then item specific ones. Any input would be greatly appreciated.

General questions/comments:

One suggestion was to have the cities create a city schedule collectively and for them to submit that, and for the counties to do the same. If they would like to get together and do that, that would be great. I have found though that I have a hard enough time getting feedback and I don't know when I could expect the cities and counties to do something like that.

Courts are bound by the retention schedule developed by the Supreme Court. I added a note at the end of the schedule stating that.

Juvenile records are based on the juvenile's birth date. Is this difficult to track? If it is, does anyone have a suggestion on what to put on the schedule so the records are kept long enough? I could just put a blanket 25 year period, but for older juveniles the records would be kept considerably longer than necessary.

On many other schedules that I have added that the records can be destroyed at the end of the calendar year of the event that marked the active life of the record. I can do that here and records could then be purged once a year if that would be helpful.

Is there a need for the legal records to match law enforcement records? Law enforcement records are kept 99 years when fingerprints are taken on arrest. Do legal records for those cases need to be kept 99 years as well?

Grant records are on the General Schedule for Management Records.

The headings for the different categories, i.e. Advocate Records, Adult Records, etc. are in alphabetical order. If someone has a better order, please tell me what that would be.

This general schedule will supersede individual custom schedules, unless your custom schedule has a longer retention time or there is an item on your custom schedule not covered by a general schedule. We will consider requests for times other than that on the general schedule, but you need to have a valid reason for why you need a different retention period.

This schedule would apply to fire districts, water districts, school districts, etc. because they all have attorneys with the districts' legal records. Most of the records series on here probably would not apply, but there are some that would.

Someone made a comment about the long retention periods and cited something about 25 years for a misdemeanor DUI. That has a retention of 5 years and I'm not sure how you came up with 25 years. Now if it went to the Supreme Court, that would be 25 years. I'm confused how you got misdemeanors had such a long retention.

There were a couple of questions/comments on historic records. By statute, the State Archivist determines what records are historic. She worked with the courts to come up with a definition. Records are deemed historic if they document a controversial issue, document a program, project, event or issue that results in a significant change that affects the local community,

city, county or state, document a program, project, event or issue that involves prominent people, places or events, or document a program, project, event or issue that resulted in media attention locally, statewide or nationally. Anything that is historic may be transferred to the State Archives and they will be responsible for the preservation of the records.

There was a comment that civil matters and criminal matters are very different, yet they are grouped together. Civil records have a heading and are items 7-17 and criminal records have a heading and are items 21-27.

I added in remarks that if there is notification of death, the records can be destroyed after that as well.

Item specific:

Item 3: There was comment that this was not applicable because it was covered under another classification. Where would that be?

Item 7: I separated litigation from advice

Item 8: I used the term "short term" to distinguish from the next 2 sections which are long term and significant. Is there something else you would rather I called it besides "short term"?

Item 9: I removed licenses since they are covered somewhere else. Some public bodies issued permits for many different activities and those permits could be revoked by the public body. These would be records for cases involving those permits.

Item 11: I changed the minimum retention to 6 years after contract expired, cancelled or revoked to cover the statute of limitations for contracts.

Item 14: I specified that the claim records were without complaint since if there was a complaint it would become a litigation record.

Item 15: I changed the title to Formal Legal Opinions

Items 18-20: The case records of contracted attorneys would be the same as case records listed elsewhere on the schedule. These are general records that a contracted attorney would create or receive that would be public records.

Item 34g: I tried to get those to reflect what the commenter requested. If this is not right, please let me know.

Item 34h: This was added by request.

Item 39: Met with ACJC to clarify this item.

Removed item called Prosecutor Case Records because they would fall under the different types of cases.

Questions/comments on Draft 2 (November 16, 2011):

General comments

I separated the schedule so that a new section will start on new page. The header will reflect which section the records will fall under.

There were separate sections for the Legal Advocate, Public Defender and Legal Defender because several years ago Maricopa County told me that the three groups had different purposes and they needed their records for different amounts of time. Since no one can explain why that is true anymore, those different sections have all been combined into one section with the same retention time for those records.