

State Records Authority of New South Wales

Functional Retention and Disposal Authority: FA333

This authority covers records documenting the function of law enforcement, court security and jury management

Issued to Office of the Sheriff

This functional retention and disposal authority is approved under section 21(2)c of the *State Records Act 1998* following prior approval by the Board of the State Records Authority of New South Wales in accordance with section 21(3) of the Act.

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Functional Retention and Disposal Authority

Authority no FA333

SR file no 09/0379

Scope

This functional retention and disposal authority covers records documenting the function of law enforcement, court security and jury management from c.1979 onwards.

Public office

Office of the Sheriff

Approval date

Jenni Stapleton
A/Director
State Records Authority of New South Wales

24/06/2013
Date

About the Functional Retention and Disposal Authority

Purpose of the authority

The purpose of this functional retention and disposal authority is to identify those records created and maintained by NSW public offices which are required as State archives and to provide approval for the destruction of certain other records created and maintained by NSW public offices, after minimum retention periods have been met.

The approval for disposal given by this authority is given under the provisions of the *State Records Act 1998* only and does not override any other obligations of an organisation to retain records.

The retention and disposal of State records

The records retention and disposal practices outlined in this authority are approved under section 21(2)(c) of the *State Records Act 1998* (NSW). Part 3 (Protection of State Records) of the Act provides that records are not to be disposed of without the consent of State Records with certain defined exceptions. These exceptions include an action of disposal which is positively required by law, or which takes place in accordance with a normal administrative practice (NAP) of which State Records does not disapprove. Advice on the State Records Act can be obtained from State Records.

The authority sets out how long the different classes of records generated by an organisation must be kept to meet its legal, operational and other requirements, and whether the records are to be kept as State archives. The State Records Authority ('State Records') reviews and approves organisations' retention and disposal authorities under the State Records Act.

This authority is the product of an appraisal process conducted in accordance with State Records' *Standard on the appraisal and disposal of State records*. It is the duty of a public office, in submitting a draft functional retention and disposal authority for approval, to disclose to State Records any information which affects the retention of the records covered by the authority.

State Records' decisions take into account both the administrative requirements of public offices in discharging their functional responsibilities and the potential research use of the records by the NSW Government and the public. One of State Records' functions is to identify and preserve records as State archives. These are records which document the authority and functions of Government, its decision-making processes and the implementation and outcomes of those decisions, including the nature of their influence and effect on communities and individual lives. Criteria for the identification of State archives are listed in *Building the Archives: Policy on records appraisal and the identification of State archives*. The Policy also explains the roles and responsibilities of State Records and of public offices in undertaking appraisal processes and disposal activities.

Implementing the authority

This functional retention and disposal authority covers records controlled by the public office and applies only to the records or classes of records described in the authority. The authority should be implemented as part of the records management program of the organisation. Two

primary objectives of this program are to ensure that records are kept for as long as they are of value to the organisation and its stakeholders and to enable the destruction or other disposal of records once they are no longer required for business or operational purposes.

The implementation process entails use of the authority to sentence records. Sentencing is the examination of records in order to identify the disposal class in the authority to which they belong. This process enables the organisation to determine the appropriate retention period and disposal action for the records. Advice on sentencing can be obtained from State Records. See *Implementing a retention and disposal authority*.

Where the format of records has changed (for example, from paper-based to electronic) this does not prevent the disposal decisions in the authority from being applied to records which perform the same function. The information contained in non paper-based or technology dependant records must be accessible for the periods prescribed in the classes. Where a record is copied, either onto microform or digitally imaged, the original should not be disposed of without authorisation (see also the *General Retention and Disposal Authority – Imaged records*). Public offices will need to ensure that any software, hardware or documentation required to gain continuing access to technology dependent records is available for the periods prescribed.

Disposal action

Records required as State archives

Records which are to be retained as State archives are identified with the disposal action 'Required as State archives'. Records that are identified as being required as State archives should be stored in controlled environmental conditions and control of these records should be transferred to State Records when they are no longer in use for official purposes.

The transfer of control of records as State archives may, or may not, involve a change in custodial arrangements. Records can continue to be managed by the public office under a distributed management agreement. Public offices are encouraged to make arrangements with State Records regarding the management of State archives.

Transferring records identified as State archives and no longer in use for official purposes to State Records' control should be a routine and systematic part of a public office's records management program. If the records are more than 25 years old and are still in use for official purposes, then a 'still in use determination' should be made.

Records approved for destruction

Records that have been identified as being approved for destruction may only be destroyed once a public office has ensured that all other requirements for retaining the records are met. Retention periods set down in this authority are *minimum* periods only and a public office should keep records for a longer period if necessary. Reasons for longer retention can include legal requirements, administrative need, and government directives. A public office *must not* dispose of any records where the public office is aware of possible legal action (including legal discovery, court cases, formal applications for access) where the records may be required as evidence.

Once all requirements for retention have been met, destruction of records should be carried out in a secure and environmentally sound way. Relevant details of the destruction should be recorded. See *Destruction of records: a practical guide*.

Organisations should review functional retention and disposal authorities regularly to ensure that they remain relevant as the organisation's functions and activities, operating environment and requirements for records change. Retention requirements may change over time. This can occur when:

- business needs or practices change
- new laws, regulations or standards are introduced
- new technology is implemented
- government administration is restructured and functions are moved between entities, or
- unforeseen or new community expectations become apparent.

State Records recommends that organisations check any functional retention and disposal authorities more than 5 years old to ensure that the retention periods and disposal actions remain relevant.

Regardless of whether a record has been approved for destruction or is required as a State archive, a public office or an officer of a public office must not permanently transfer possession or ownership of a State record to any person or organisation without the explicit approval of State Records.

Administrative change

This functional retention and disposal authority has been designed to link records to the functions they document rather than to organisational structure. This provides for a stable retention and disposal authority that is less affected by administrative change. The movement of specified functions between branches or units within the public office does not require the authority to be resubmitted to State Records for approval. However, when functions move from one public office to another the public office that inherits the new function should contact State Records to discuss use of any existing retention and disposal authority approved for use by a predecessor organisation.

Amendment and review of this authority

State Records must approve any amendment to this authority. Public offices that use the authority should advise State Records of any proposed changes or amendments to the authority.

State Records recommends a review of this authority after five years to establish whether its provisions are still appropriate. Either the public office or State Records may propose a review of the authority at any other time, particularly in the case of change of administrative arrangements or procedures which are likely to affect the value of the records covered by this authority.

In all cases the process of review will involve consultation between State Records and the public office. If the process of review reveals that this authority requires amendment, the necessary amendments should be made and approved.

Contact Information

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Functional Retention and Disposal Authority
Law enforcement, court security and jury management
(Office of the Sheriff)

Authority number: FA333

Dates of coverage: c.1979+

List of Functions and Activities covered

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No	Function/Activity	Description	Disposal Action
1.0	COURT ORDERS AND JUDGEMENTS	The receipt and actioning of warrants and orders issued by the Courts. Includes the management and disposal of seized and confiscated assets.	
1.1		Records relating to the receipt and actioning of warrants and orders issued by the Courts. Includes: <ul style="list-style-type: none"> • writs for the levy of property • writs of delivery to search a property • writs for the possession of land • warrant of arrest • orders for eviction from a property • orders to seize property in lieu of payment for outstanding fines • ship arrests • the management of associated incidents e.g. resisting arrest, interfering with seized goods, prevention of authorised officer's carrying out duties. 	Retain minimum of 15 years after action completed or expiry of the warrant, then destroy
1.2		Records relating to the management and disposal of assets seized or confiscated under warrants or orders issued by the Courts. Includes the sale of land and or real estate. Includes: <ul style="list-style-type: none"> • requests for information from other government agencies such as NSW Police • records of asset descriptions and valuations • records of investigations • seizure/confiscation documentation • auction advertisements, notices, catalogues and associated correspondence. 	Retain minimum of 7 years after action completed, then destroy

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No	Function/Activity	Description	Disposal Action
<i>COURT ORDERS AND JUDGEMENTS</i>			
1.3		Records relating to searches undertaken to ascertain if a company has been placed in liquidation and queries about whether a matter is listed with the Sheriff's Office.	Retain minimum of 6 months after action completed, then destroy
1.4		Sheriff officer's personal note books recording daily occurrences.	Retain minimum of 7 years after action completed, then destroy
2.0	SERVICE OF PROCESS	The service of documents and subpoenas.	
2.1		Records relating to the service (or attempted service) of documents by Sheriff's officers.	Retain minimum of 7 years after action completed, then destroy
3.0	JURY MANAGEMENT	The function of administering jury services.	
3.1		Records containing the list of persons on the Jury Roll or Supplementary Jury Roll. Includes name, contact details and jury district.	Retain minimum of 5 years after action completed, then destroy
3.2		Records relating to notice of inclusion on a jury roll and summons to attend for jury duty. Includes: <ul style="list-style-type: none"> • applications to be excused or exempted from jury service • requests to be removed from the jury roll (approved and refused). 	Retain minimum of 2 years after action completed, then destroy
3.3		Records relating to the management of juror attendance. Includes:	Retain minimum of 7 years after action

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No	Function/Activity	Description	Disposal Action
<i>JURY MANAGEMENT</i>			
		<ul style="list-style-type: none"> • attendance records • declarations by jurors regarding payment and payment records • documentation relating to jurors such as medical certificates and letters from employers. 	completed, then destroy
3.4		Records relating to failure by jurors to attend court when required. Records include: <ul style="list-style-type: none"> • letter advising of requirement to attend • enforcement letter • choice to contest documentation • application, notification, result sheet, etc. 	Retain minimum of 7 years after action completed, then destroy
3.5		Records relating to appeals against a decision of the Sheriff not to excuse a person from the jury roll or jury service.	Retain minimum of 7 years after action completed, then destroy
3.6		Records relating to investigations of jury tampering. Records include: <ul style="list-style-type: none"> • initial notification reports • police notifications • interview transcripts • reports on investigation results • Crown Solicitor's advice • notification of charges laid. 	Required as State archives
4.0	POLICY AND PROCEDURES	Activities associated with developing and establishing decisions, directions and precedents to guide decisions making and the conduct of operations.	

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No	Function/Activity	Description	Disposal Action
<i>POLICY AND PROCEDURES</i>			
4.1		Final versions of policies and procedures for the enforcement of writs, management of warrants, service of documents, asset seizure and disposal and for the management of juries and jurors. Includes published guides, handbooks and information sheets	Required as State archives
4.2		Records relating to the development and implementation of policies and procedures for the management of operations. Includes records of policy and procedures drafting, update and review processes.	Retain minimum of 7 years after superseded, then destroy
5.0	SECURITY MANAGEMENT	<p>The management of security arrangements for court houses and members of the judiciary.</p> <p>See General Retention and Disposal Authority <i>Administrative records</i> INFORMATION MANAGEMENT - Cases for records relating to requests for CCTV footage.</p> <p>See General Retention and Disposal Authority <i>Administrative records</i> PROPERTY MANAGEMENT - Arrangements for records relating to the management of parking at court facilities.</p> <p>See General Retention and Disposal Authority <i>Administrative records</i> PROPERTY MANAGEMENT - Security for records relating to responses to alarms, alarm maintenance, issue of keys etc.</p>	
5.1		Registers, logs or books recording details of incidents, threat notifications or occurrences. Includes logs of all radio calls received and sent from the Sheriff's operations centre.	Retain minimum of 7 years after action completed, then destroy