

Records Retention: The Heart of the Matter

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[Your Goals and Concerns...]



What is a Record? (Public Agencies)

- A "record" is any writing containing information relating to the conduct of the public's business that is prepared, owned, used, or retained ... regardless of physical form or characteristics. (Government Code §6252 through §6257)
- Test: Does it memorialize the conduct of the public's business?
- Test: Was it prepared, owned, used, or retained by a government agency?

[Media and Devices (All)]

“Records, whether they are on paper or electronic, must be managed in the same fashion to ensure they can be properly retrieved when needed and are purged on a set schedule...”

– Peter R. Hermann, CEO, ARMA, International

[Media and Devices (All)]

- Media / Devices are Transparent to Law
 - Evidence Code §250 (electronic communications)
 - Uniform Electronic Transactions Act
 - Civil Code §1633.2 “...all records and signatures created, used and stored by any medium which permits the information to be retrieved in perceivable form”

Does it need to be Retained?

- **Cities: Minimum 2 year Retention** (GC 34090 et seq.)
 - Not Required of ALL records:
 - Test: Was it made or retained for the purpose of preserving the informational content for future reference?
 - Test: What is your “Ordinary Course of Business”?
- **Districts: No Minimum Retention**
- **Private Sector: No Minimum Retention**

Records Retention Basics (1 of 2)

- Correspondence: 2 years
- Contracts:
 - Completion + 5 years
 - Completion + 10 years
 - Permanent

Records Retention Basics (2 of 2)

- Boards / Commissions
 - Agenda Packets: Minimum 2 years
 - Minutes: Permanent
 - Audio: 30 days (or longer)
 - Video: 90 days (or longer)

[Approval to Destroy is Mandated!]

- Copies, drafts, notes:
 - Approval not required
- All original (“official”) records:
 - The Board / Council has to approve 1st
 - Resolution of Destruction OR
 - Resolution approving a Records Retention Schedule
 - Form with signatures still required
- Private Sector – No mandate

Electronic Records (Public)

- A “public record” for purposes of records retention laws is “a thing which constitutes an objective lasting indication of a writing event or other information, which is in the custody of a public office and is kept either (1) because a law required it to be kept or (2) because it is necessary or convenient to the discharge of the public officer’s duties and was made or retained for the purpose of preserving its informational content for future reference.”
 - 64 Cal. Ops. Att’y Gen. 317 (1981)

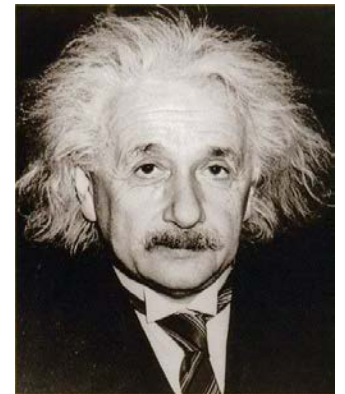
E-Records, if “Record Copy” (All)

- Must be kept pursuant to routine procedures designed to assure their accuracy – Federal Rules of Evidence, Rule 803(6)
- .. reflect the content, structure, and context within the system. Electronic records should be inviolate (not damaged, destroyed, or modified), coherent (represent logical relationships), and auditable (actions taken to the document can be documented) – Model Guidelines for Electronic Records, National Historical Publications and Records Commission

[The Disconnect....(All)]

49% of workers indicate problems with finding information - AIIM Study, 2008

“Intelligence is not the ability to store information, but to know where to find it.” - Albert Einstein



Discuss challenges & solutions!

[E-mail Best Practices (current)]

- Managed Similar to US / Paper Mail.
- Users Responsible (just as they are for other mail.)
- Delete preliminary drafts as soon as they are no longer required, in the ordinary course of business.
- Records that need to be retained are filed with the Project File

[E-Mail Best Practices (current)]

- What remains in In-Boxes and Sent Items are preliminary drafts not retained in the course of business, and are “auto-deleted” after 30, 60, 90, 120 days (etc.)
- Trend: E-mail archivers / longer basic retention (2 years)

[AB 1184 (Public Agencies)]

- Applies to All Public Agencies
- Mandated 2 year retention for e-mails
- ...relating to the conduct of the public's business...(would exclude spam)
- No reimbursement for unfunded mandate
- Progressing though Committees
- Wait until November

[Here's Motivation!!!]

- According to a study conducted by UCLA
- Clutter raises your level of Cortisol, a hormone that can cause weight gain and increased blood pressure.

[Thank you!]

- Questions?
- Worries?
- Aren't you glad you accepted your job?
 - No backing out now

