

Updated Disposition Report instructions and address 11/2022
No changes were made to records retention

Schedule 122

COUNTY PUBLIC DEFENDERS

August 22, 2005

Nebraska Records Management Division
3242 Salt Creek Circle
Lincoln, NE 68504
(402) 471-2559

**REQUEST FOR APPROVAL
OF RECORDS RETENTION
AND DISPOSITION SCHEDULE**

SCHEDULE	122
AGENCY, BOARD OR COMMISSION	COUNTY PUBLIC DEFENDER
DIVISION, BUREAU OR OTHER UNIT	
Supersedes Edition of October 21, 1988	

TO: STATE RECORDS ADMINISTRATOR STATE OF NEBRASKA
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PART I -- AGENCY STATEMENT

In accordance with Section 84-1212.01, R.R.S. 1943, approval of the attached records retention and disposition schedule by the State Records Administrator is hereby requested. Retention periods and dispositions have been recommended by this agency after a careful evaluation of all factors listed in Section 84-1212.01, R.R.S. 1943.	
SIGNATURE	<i>Don R. Kecke</i>
TITLE	<i>Lancaster County Public Defender</i>
DATE	<i>8/8/2005</i>

PART II - ARCHIVAL APPROVAL

The attached schedule has been analyzed, all archival and historical material has been properly identified, no disposition except by transfer to the State Archives has been recommended for such material, and this schedule is approved as submitted.	
SIGNATURE	DATE
<i>Andrea I. Faling</i>	<i>Aug. 17, 2005</i>
STATE ARCHIVIST	

PART III -- APPROVAL BY STATE RECORDS ADMINISTRATOR

The attached schedule has been reviewed in accordance with Section 84-1212.01, R.R.S. 1943, and is approved as submitted.	
SIGNATURE	DATE
<i>John A. Hall</i>	<i>8/22/05</i>
STATE RECORDS ADMINISTRATOR	

INSTRUCTIONS FOR USING THIS SCHEDULE

Records retention and disposition schedules are designed to serve as your records management guideline for storing and disposing of agency records, **regardless of the media on which they reside**, including paper, microfilm, diskettes, optical disks, CDs, DVDs, servers, computer hard drives, etc. This schedule was written specifically for records unique to your office and the Local Agencies General Records Schedule #24 contains those records common to most local government agencies. This retention schedule, which is approved by the State Records Administrator, provides your only ongoing authority to dispose of records. Listed below are some basic procedures to follow when applying this schedule.

DISPOSING OF RECORDS

1. Check your schedules to see what the retention period is. Note: Your agency's unique schedule will take precedence over General Records Schedule #24 for any items which have differences in retention requirements.
2. Dispose of records that have met their retention periods. Unless there is pending or on going, legal action, records request, or audit.
3. For records requiring a review of, or transfer to the **NE State Historical Society (State Archives)**, your agency is required to contact the State Archives to negotiate the transfer. Additionally, **once the records are accessioned into their collection, they become the property of the State Archives**. The State Archives may remove selected records in accordance with standard archival practices to ensure efficient access, organization and enduring historical value (Nebr. Rev. Stat. §82-107). Please contact their office by calling (402) 471-4783.
4. Complete a Records Disposition Report for the records you dispose. The Records Disposition Report form is located on the Secretary of State Records Management website. https://appengine.egov.com/apps/ne/sos_records_disposition_report. This report establishes that the destruction was performed in your normal course of business.

NON-SCHEDULED RECORDS

Contact a Records Management Specialist in Records Management to see whether the records will fit under an item already on the schedule. If they do not, they must be retained until they are added to the next revision of your schedule.

SCHEDULE UPDATE

It is the responsibility of each agency to periodically update their schedule. A Records Management Specialist in Records Management can assist you with the schedule update, which may involve adding new records series and making revisions to existing items. Keeping your schedule current will ensure you have the ongoing authority to discard records when their useful life has ended.

QUESTIONS

If you have any questions about these procedures, please contact your agency Records Officer or the Records Management Specialist in Records Management. They will help you with any questions the schedule may present, including: transferring records to the State Records Center or microfilming records, scanning records, etc.

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SCHEDULE 122 – COUNTY PUBLIC DEFENDERS

NOTICE: *The following dispositions establish minimum retention periods for the usual cases in each category. Records of high profile cases with potential for ongoing reference should be retained for longer time periods at the discretion of the County Public Defender. Subject to review by the County Public Defender to the records series affected.*

122-1 CHILD SUPPORT CONTEMPT CASE FILES

Confidential case files of those individuals alleged to be in arrears of their court-ordered child support payments. Case file may consist of individual's employment history, payment history, medical history, attorney's work product, as well as documents relating to the contempt action itself and may also include actions for paternity.

Dispose of 10 years after opening.

122-2 CORONERS INVESTIGATIVE RECORDS (OBSOLETE)

All coroners' records including autopsy reports.

Currently a function of the County Attorney's office.

122-3 FELONY CASE FILES

Confidential case files of those individuals accused of any felony violations. Case file may consist of: copies of the police report; copy of the criminal record of the accused; attorney's work product; copy of the complaint or information; copies of all other documents filed in the court having jurisdiction; letters or copies of letters between the attorney and the client; written statement of facts by the defendant or witnesses; photocopies of any applicable statutes or cases; copies or original of Bills of Exceptions; copy of the final disposition; etc.

Dispose of 5 years after final disposition of case.

122-4 INVESTIGATIVE CASE FILES (OBSOLETE)

All investigative case files which do not result in prosecution of a case.

Currently a function of the County Attorney's office.

122-5 JUVENILE CASE FILES

Confidential case files of those individuals under the age of 18 years accused of any traffic, misdemeanor or felony violation. Case file may consist of: police report; copy of the criminal record of the accused; attorney's work product; and, if applicable, copy of the complaint, information or petition; copies of all pleadings in the case file; copy of the final disposition; etc.

Dispose of 5 years after final disposition of case.

122-6 MENTAL HEALTH BOARD CASE FILES

Confidential case files of those individuals accused of being mentally ill and dangerous as defined in the state statutes. Case file may consist of: copy of the police report; copies of the examining psychiatrist evaluation and diagnosis; copies of all pleadings with the Mental Health Board; copies of the attorney's work product; copy of the Board's final disposition of Petition, etc.

Dispose of 5 years after final disposition of case.

122-7 MISCELLANEOUS CASE FILES

Files are opened in a variety of cases where the courts appoint a Public Defender to represent individuals who are already incarcerated and are challenging their conviction or the condition of their confinement or where a fugitive from justice complaint has been filed involving the request from another state to have the client extradited. May include legal pleadings, letters to and from client, attorney notes, etc.

Dispose of 5 years after final order of the court.

122-8 MISDEMEANOR CASE FILES

Confidential case files of those individuals accused of any misdemeanor violation. Case file may consist of: copies of the police report; copy of the criminal record of the accused; attorney's work product; copy of the complaint or information; copies of all other documents filed in the court having jurisdiction; letters or copies of letters between the attorney and the client; written statement of facts by the defendant or witnesses; photocopies of any applicable statutes or cases; copies or original of Bills of Exceptions; copy of the final disposition; etc.

Dispose of 5 years after final disposition of case.

122-9 SUPREME COURT APPEAL AND NEBRASKA COURT OF APPEALS CASE FILES

Files are opened whenever the Public Defender appeals any action to the Nebraska Supreme Court. Case files may consist of pleadings from the District Court, correspondence with the client concerning the appeal, legal research and memorandums, as well as the briefs themselves, etc.

Dispose of 5 years after filing of the Court's opinion.

122-10 WORK PRODUCT (EXCEPTIONS)

For the purpose of these regulations, the phrase 'work product' shall include all documents representing work done by the County Public Defender and their agents in his/her professional capacity, and will be disposed of in conjunction with the case file to which it pertains. Work product will not include (exceptions): (1) investigative and intelligence information concerning the crime the subject of the criminal information or other allegations of criminal conduct not specified in the criminal information; (2) interviews conducted by the public defender or another on his/her behalf; (3) comments and evaluations of witnesses and evidence by the public defender or another on his/her behalf; (4) comments and evaluations relating to any settlement of the case without trial through an adjustment in the charges filed; and, (5) all other notes, reports and documents not filed with the court.

EXCEPTIONS (1-5): Dispose of when no longer needed at the discretion of the public defender.

WORK PRODUCT: Dispose of in conjunction with the case file to which it pertains.

122-11 FISCAL RECORDS

Fiscal information consisting of bank statements, check receipts, cancelled checks and stubs, receipts of checking account, etc.

Dispose of according to Schedule 24 – GENERAL RECORDS, LOCAL AGENCIES.

NOTE

1. These records may be disposed of after the required retention period provided the audit has been completed with the audit report released and all related audit comments resolved. Check with the organization that performed the audit, and, if applicable, the Federal cognizant agency if there is a question whether resolution is complete. For records retention purposes only, the issuance of an audit waiver (or an Unaudited Financial Statement for villages) by the Auditor of Public Accounts shall take the place of an actual audit.