

ADMINISTRATIVE BULLETIN NO. 11

Revised: March 19, 2024

Replaces Administrative Bulletin No. 11 dated February 13, 2018

SUBJECT: RETENTION AND DESTRUCTION OF COUNTY RECORDS AND LITIGATION HOLDS

PURPOSE

Administrative Bulletin No. 11 is intended to promote compliance with laws that govern the retention and destruction of non-judicial County records. It is also intended to establish consistent procedures throughout Kern County for the management, retention, and destruction of records in order to:

1. Promote the County's compliance with State and Federal laws;
2. Provide guidelines for initiating, implementing and releasing Litigation Holds.
3. Reduce the County's costs for records storage, handling, and management;
4. Reduce the number of records held beyond legal retention requirements;
5. Increase the security and safeguard the privacy of the information contained in confidential and sensitive records;
6. Eliminate unnecessary staff time associated with records management.;
7. Provide guidelines for the proper utilization of technology to manage and, as appropriate, to store County records;
8. Encourage and advise departments on the inter-departmental sharing and access of common records through the appropriate use of electronic technology;
9. Provide coordinated training of staff throughout the County as to effective records management principles and guidelines;
10. Reduce costs, including the cost of production of records during discovery; and
11. Reduce staff time required to respond to Public Records Act and discovery requests.

The County of Kern generates, receives, handles, and maintains many records in the performance of its business activities as a public entity. The County must effectively manage and promote the proper retention and destruction of records.

Efficient, effective, and economical management of records will promote the availability of information necessary to conduct County business and will allow the County to maintain control over its information.

State and Federal Law both require that certain types of records must be retained for specified time periods. It is essential that records are properly managed and retained, and then timely destroyed.

The California Public Records Act (CPRA) provides the public access to certain information in the possession of public agencies. (Gov. Code §§ 7921.000-7921.010.) The CPRA gives members of the public the right to inspect public records that are not exempt from disclosure. (Gov. Code § 7922.525.)

State and federal laws impose an obligation on the County to preserve relevant evidence as soon as the County reasonably anticipates litigation against or by the County. The duty to preserve evidence includes an obligation to identify, locate, and maintain records that are relevant to specific, predictable,

and identifiable litigation. Once the obligation to preserve records has been triggered, record retention and destruction policies must be suspended and litigation holds implemented to promote the preservation of relevant records.

DEFINITIONS

1. Record

“Record” means 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. (Gov. Code § 7920.530(a).) This means a record can be any paper or electronic document, computer tape, film, e-mail and/or text message, or other form of documentation that records or transmits any type of writing relating to the conduct of County business. Records originate and/or are managed in all County departments, divisions, and agencies. The information these records transmit or contain may be administrative, financial, clinical, legal, or personnel-related.

All records sent, received, stored, or used on either County-owned or private accounts in the conduct of County business are subject to the Public Records Act and record retention requirements. It is the employee’s responsibility to keep any records on private accounts for the applicable retention period and to make them available to the County. (See Administrative Policy and Procedures Manual, Chapter 7, Exhibit B: Kern County Electronic Communications Usage Policy, IV.)

2. Official Record

“Official record” means any record that constitutes a lasting indication of a writing, event, or other information, and:

- A. Is prepared or received or required to be retained pursuant to State or federal statute, regulation, or case law; or
- B. Is required to be retained by a records retention schedule adopted by the Board of Supervisors; or
- C. Is necessary or convenient to the discharge of a public officer's duties and was made or retained for the purpose of preserving its informational content for future reference. (Gov. Code §§ 26202, 26205.1; 64 Ops.Cal.Atty.Gen. 317, 324-26 (1981).)

3. Writing

"Writing" means any handwriting, typewriting, printing, photo-stating, photographing, photocopying, transmitting by electronic mail, text message, or facsimile, other electronically-stored information, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored, created, or sent. (Gov. Code § 7920.545.)

4. Electronically-Stored Information

“Electronically-stored information” (“ESI”) means information stored on a computer or computer

server or created by using a computer (including “smart phones”), or any other electronic medium or device for electronic processing that requires a computer or other electronic medium or device to display or process the records. Electronically-stored information includes, but is not limited to:

- A. E-mails, text messages/SMS messages/iCloud messages, instant messages/Teams messages, communications sent through any other applications, Teams recordings, digital images, voicemail, photographs, sound recordings, compact disks, audiotapes, videotapes, spreadsheets, and other data or data compilations stored in any electronic medium from which information can be obtained.
- B. Information created through the use of, and contained in, social media applications.

5. Record Retention and Destruction Schedule

The Record Retention and Destruction Schedule (Schedule A) reflects retention and destruction requirements for categories of records pertaining to County departments, agencies, and offices. The Schedule specifies the length of time that records must be maintained before destruction.

The Record Retention and Destruction Schedule establishes the minimum statutory time periods for retention and the five-year retention period for all financial records. Departmental practices, the investigation of complaints, the existence or likelihood of litigation or administrative enforcement actions, or other business needs may compel a longer retention period. If there is any doubt as to the need for longer retention of a particular record, please consult with County Counsel.

6. Certified Permanent Record

“Certified permanent record” means the set of County records that have been reproduced on a permanent medium, where the reproduction device does not permit additions, deletions, or changes in the document, and where the reproduced records are made conveniently accessible to persons wishing to inspect the same.

7. Litigation Hold

A “Litigation Hold” is a legal directive to cease destruction processes and preserve all records, regardless of form, related to the nature or subject of pending or reasonably anticipated litigation involving the County, its departments, or employees.

RETENTION AND DESTRUCTION PROCEDURE

1. Records Required to Be Retained

Official records, records subject to a pending California Public Records Act request, and records related to pending and reasonably anticipated litigation must be retained by the County.

2. Destruction of Non-Official Records

Non-official records should be destroyed after the person or Department in possession of the records has determined that they are not subject to a pending CPRA request or Litigation Hold or otherwise deemed an official record.

3. Records Destruction Procedure

This procedure only applies to those records for which the destruction requires Board of Supervisors approval (see Schedule A, “Record Retention and Destruction Schedule”).

The procedure for the destruction of records is as follows:

- A. As needed or at the close of each fiscal year and in accordance with Schedule A, the Department shall fill out Form 46, “Authorization to Destroy Records,” which may be found on CountyNet.
- B. The Department shall submit the completed Form 46 to County Counsel for review. County Counsel will reject incomplete forms.
- C. After County Counsel has approved Form 46, County Counsel will submit it to the Auditor for review and approval.
- D. After the Auditor has approved Form 46, County Counsel will submit it to the Board of Supervisors for review and destruction authorization.
- E. After the Board of Supervisors has approved destruction of the records listed in Form 46, the Clerk of the Board will send an executed copy of Form 46 to the Department to be retained in the Department’s historical file marked “Records Disposition.”

4. Department Head Responsibilities

- A. Department heads or their designees shall appoint a specific person or persons to be responsible for the implementation of Administrative Bulletin No. 11 and to be responsible for public records requests.
- B. Department heads or their specifically-appointed designees in conjunction with County Counsel shall update the retention periods or other retention/destruction rules applying to their Departments when required by law and/or changes in technology.
- C. Department heads must complete annual training conducted by County Counsel regarding retention and destruction of records and the CPRA.
- D. Department heads or their designees must appoint individuals to act as records-management program coordinators to assist employees in records management functions and to coordinate records management with other Departments, when appropriate.
- E. Department heads must ensure that individuals appointed to act as records management program coordinators receive annual training in records retention, records destruction, and responding to public records requests.

SCHEDULE A
Record Retention and Destruction Schedule

1. General Rule: Record Retention and Destruction Periods

Unless otherwise required by statute, regulation, grant agreement, or contractual provision:

- A. The Board of Supervisors may authorize at any time the destruction of any duplicate record, as long as the original record or a permanent photographic reproduction of the record is maintained in the files of any County officer or department. (Gov. Code § 26201.)
- B. The Board of Supervisors may by majority vote authorize the destruction of any record which is more than two years old and which was prepared or received in any manner other than pursuant to a state statute. (Gov. Code § 26202.)
- C. The Board of Supervisors may authorize the destruction of any record which is more than two years old, which was prepared or received pursuant to state statute and which is not expressly required by law to be filed and preserved, if the Board of Supervisors determines by four-fifths (4/5) vote that the retention of that record is no longer necessary or required for County purposes. (Gov. Code § 26202.)
- D. The Board of Supervisors may at any time authorize the destruction of any original record that is not specifically required by law to be preserved, provided all of the following conditions are satisfied:
 - i. The records have been photographed, micro-photographed, electronically recorded, recorded on optical disk, or reproduced on any permanent medium;
 - ii. The recording method does not permit additions, deletions, or changes in the text of the document; and
 - iii. The recorded documents are made conveniently accessible to persons wishing to inspect the same. (Gov. Code § 26205.)

All records electronically recorded pursuant to this section shall be done so on a Trustworthy Enterprise Content Management System as defined in Appendix A.

- E. The County officer having custody of original, non-judicial public records, documents, instruments, books, and papers that are required by law to be preserved may destroy those records at any time if all of the following conditions are satisfied:
 - i. The Board of Supervisors adopts a resolution authorizing records destruction pursuant to this section;
 - ii. The officer having custody of the records maintains for the use of the public a permanent photographic or microphotographic film, electronic record, tape, or disk reproduction of the original document that does not permit additions, deletions, or changes in the text of the item destroyed; and
 - iii. The records are photographed, microphotographed, reproduced by ESI

recorded video images on magnetic surfaces, recorded in the electronic data processing system, recorded on optical disk, or reproduced on film or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document and is produced in compliance with standards adopted by the Secretary of State for the storage and recording of documents in electronic media. (Gov. Code §§ 26205.1; 12168.7.)

All records electronically recorded pursuant to this section shall be done so on a Trustworthy Enterprise Content Management System as defined in Appendix A.

- F. Original records dealing with the administration of federal or state funded programs and that are not otherwise required to be preserved by state law may be destroyed only with the consent of and under the records retention regulations of the federal or state agency funding the program, and with the authorization of the Board of Supervisors, utilizing the procedures set out above.
- G. Departmental records concerning employee performance, assignments, or discipline, the originals of which are not lodged with Human Resources, shall be retained for at least two years and may not be destroyed while there is any investigation pending concerning discrimination charges filed by or concerning that employee. Specifically, records must be retained through any final disposition of the discrimination charge/action, and records must be retained for one year from the making of the record or the personnel action involved, whichever occurs later. (29 C.F.R. § 1602.14.) Personnel records maintained by Human Resources must not be destroyed for at least three years after termination of employment. (Labor Code § 1198.5.)
- H. Financial records shall be retained for at least five years. Financial records are any documents representing the financial transactions of the County or any department of the County. Financial records include, but not are limited to: ERODs, Deposit logs, County copies of receipts, bank statements, Claims, Vouchers, Government Code Refunds, Trust Fund records, invoices, Journals, PCard documentation, reconciliations, contracts, audits, and financial correspondence.
- I. Recordings of routine video monitoring may be destroyed after one year upon authorization by the Board of Supervisors with written consent of County Counsel. In the event that the recordings are evidence in any claim filed or any pending litigation, they shall be preserved until pending litigation is resolved. (Gov. Code § 26202.6.)
- J. Recordings of telephone and radio communications may be destroyed after 100 days upon authorization by the Board of Supervisors with written consent of County Counsel. In the event that the recordings are evidence in any claim filed or any pending litigation, they shall be preserved until pending litigation is resolved. (Gov. Code § 26202.6.)

2. Specialized Records Retention and Destruction Authority

2.1 Aging and Adult Services

Decedent, guardianship, and conservatorship files may be destroyed, upon authorization by the Board of Supervisors, two years after a court order of discharge has been secured and the case closed. (Gov. Code § 26202.)

2.2 Assessment Appeals Board

- A. All assessment appeal applications, records, and proceedings shall be retained by the Clerk of the Board of Supervisors (Rev. & Tax. Code § 1628) and, with the authorization of the Board of Supervisors, may be destroyed upon the creation of a permanent record on substitute media that does not permit additions, deletions, or changes to the original document. (Gov. Code § 26205.) Otherwise, the records may be destroyed not less than four years after the taxes underlying the assessment have been paid upon authorization by the Board of Supervisors. (Gov. Code § 26202.)
- B. The Clerk of the Board of Supervisors may, without complying with any other provision of law, destroy records consisting of claims against the County and claims against special districts for which the Board of Supervisors is the governing body, whenever the claims have been retained by the Clerk for a period of not less than five years after final action on the claim. The Clerk may destroy records consisting of assessment appeal applications when five years have elapsed since the final action on the application. The Clerk may destroy the records three years after the final action on the application, if the records consisting of assessment appeal applications have been microfilmed, microfiched, imaged, or otherwise preserved on a medium that provides access to the documents. As used here, "final action" means, in the case of an assessment appeals application, the date of the final decision by the Assessment Appeals Board and, in the case of a claim, the date of payment or settlement of the claim, or denial or approval of the claim by or on behalf of the Board of Supervisors or by operation of law, whichever occurs first, if there is no action pending involving the application or claim. (Gov. Code § 25105.5.)

2.3 Assessor

- A. Any document containing information obtained from a taxpayer must be retained for six years after the lien date for the tax year to which it pertains, except that such documents may be destroyed immediately upon preservation in a medium that provides access to the documents. Acceptable media includes microfilm, microfiche, electronic document imaging, and any other media that captures a true image of the document that may be later retrieved. (Rev. & Tax. Code § 465.)
- B. Lot books that are microfilmed may be destroyed upon authorization by the Board of Supervisors. (Gov. Code § 26205.)
- C. The original unsecured roll, containing the information in the delinquent roll or index, may be destroyed upon authorization by the Board of Supervisors if the delinquent roll

or abstract list has first been certified as correct and complete by the Auditor-Controller-County Clerk, and a certified, permanent record on substitute media that will be retained for at least five years from the date of the creation of the original document has been prepared. If more than five years have elapsed since the creation of the original document, no substitute media record need be made or retained. (Rev. & Tax. Code § 2928.)

2.4 Auditor-Controller-County Clerk

- A. Claims, warrants, or vouchers may be destroyed at any time after being made part of a certified permanent record or after five years. (Gov. Code § 26907(a).)
- B. Index or warrant registers may be made part of a photographic record at any time and the original destroyed. Any index or warrant register that is over five years old may be destroyed without being photographically or microphotographically reproduced. (Gov. Code § 26907(b).)
- C. Bonds or coupons may be destroyed after they have been paid or canceled for least five years. (Gov. Code § 26907.1.)
- D. County deposit permits or deposit receipts may be destroyed five years after deposit upon authorization by the Board of Supervisors. (Gov. Code § 26907.2.)
- E. County inventories may be destroyed five years after preparation upon authorization by the Board of Supervisors. (Gov. Code § 24051.)
- F. County officer fee collection affidavits may be destroyed five years after preparation. (Gov. Code § 24356.)

2.5 Clerk of the Board of Supervisors

- A. Unaccepted bids may be destroyed after five years upon authorization by the Board of Supervisors. (Gov. Code § 26202; 26202.1.)
- B. Contracts and specifications for County buildings may be destroyed upon authorization by the Board of Supervisors immediately after making the originals part of the certified permanent record of the Board. (Gov. Code § 26205.1.)
- C. Special district original records may be destroyed upon authorization by the Board of Supervisors immediately after making the originals part of the certified permanent record of the Board. (Gov. Code § 26205.1.)
- D. General official Board records (all land use, zoning, ordinances, resolutions, records, etc.) may be destroyed upon authorization by the Board of Supervisors immediately after making the originals part of the certified permanent record of the Board. (Gov. Code § 26205.1.)

- E. All insurance policies naming the County as a beneficiary may be destroyed upon authorization by the Board of Supervisors immediately after making the originals part of the certified permanent record of the Board. (Gov. Code § 26205.1.)
- F. Form 700 originals may be destroyed after seven years and Form 700 copies may be destroyed after four years, with the authorization of the Board of Supervisors. (Gov. Code § 81009.)

2.6 Coroner

An official file for each decedent is required. The original must be photographed or microfilmed and permanently placed in an accessible file. (Gov. Code § 27463.5.)

2.7. County Clerk

- A. A Fictitious Business Name Statement may be destroyed four years after the Statement has expired. (Bus. & Prof. Code § 17927(a).)
- B. An Abandonment of Fictitious Business Name Statement may be destroyed at the same time the Fictitious Business Name Statement to which it relates is destroyed. (Bus. & Prof. Code § 17927(b).)
- C. All papers of a deceased or lapsed notary public may be destroyed ten years subsequent to deposit if no request for or reference to such records has been made, upon the authorization of the Superior Court. (Gov. Code § 8209.)
- D. Original certificates of confidential marriage may be destroyed after one year from the date of filing if reproduced pursuant to Government Code section 26205. (Fam. Code § 511(b).)
- E. Notary oaths may be destroyed one year after the commission for which the bond was issued has lapsed. (Gov. Code § 8213.)
- F. Lapsed financing statements and termination statements may be destroyed one year after lapse. (Com. Code §§ 9513; 9522.)

2.8 Communications Division (and other County Departments/Agencies that record radio or telephone communications)

Recorded radio or telephone communications may be destroyed not less than 100 days after making upon authorization by the Board of Supervisors and written consent by County Counsel. In the event that the recordings are evidence in any claim filed or any pending litigation, they shall be preserved until pending litigation is resolved. (Gov. Code § 26202.6.)

2.9 Department of Human Services

- A. Case history, narratives, or any documents pertaining thereto concerning a recipient of public assistance may be destroyed after compliance with all state and federal records

retention and audit requirements and with the authorization of the Board of Supervisors if the individual has not received assistance for a period of at least three years unless State Department of Social Services or State Department of Health Services, whichever has jurisdiction over the records, instructs the County to retain records beyond the three-year period when the retention is necessary to a pending civil or criminal action.. If a civil or criminal action against a person based on alleged unlawful application for, or receipt of, public social services, is commenced before the expiration of the three-year period, no portion of the case record of the person shall be destroyed until the action is terminated. (Welf. & Inst. Code § 10851.)

- B. Closed Case Records and Split (archived) Volumes of Open case Records shall be retained for 42 months or as specified by the respective authority due to a state or federal audit or ongoing court case. (CA-SSS-Manual-OPS 23-353.6, Kern County Dept. of Human Services PIM No. 12-34.)
- C. Class I Child Protective Services case records are to be stored perpetually unless they are scanned into an electronic data retrieval system that meets the requirements of Welfare and Institutions Code section 10851(f) and California Department of Social Services All County Letter 11-23. Class II Child Protective Services records shall be retained for at least three years. (Kern County Dept. of Human Services Procedural Guide 500-037.)

2.10 District Attorney/Forensic Laboratory

The records of the District Attorney's forensic laboratory shall be maintained and destroyed in accordance with Title 17 of the California Code of Regulations. Laboratory records not addressed there shall be destroyed in accordance with the general laws referenced herein.

2.11 Elections

- A. Canceled original Affidavits of Registration may be destroyed after five years from date of receipt. (Elec. Code § 17000.)
- B. Nomination documents and signatures in lieu of filing fee petitions may be destroyed four years after the expiration of the term for which the papers were filed unless some action or proceeding is pending. (Elec. Code § 17100.)
- C. Initiative and referendum petitions may be destroyed eight months after final certification of election results unless some action or proceeding is pending. (Elec. Code § 17200.)
- D. Rosters of voters may be destroyed five years after the date of the election. In lieu of preserving the original roster of voters, the roster may be destroyed following the next subsequent general election if it is recorded by filming or other suitable method. (Elec. Code § 17300.)
- E. For any election where federal offices are voted upon, unopened and unaltered packages containing voted ballots, paper record copies of voted polling place ballots,

vote by mail and provisional ballot envelopes, and spoiled, canceled, or unused vote by mail ballots surrendered by the voter shall be destroyed 22 months after the date of the election if no contest or criminal action has been commenced in that period. (Elec. Code § 17301.)

- F. For state or local elections, unopened and unaltered packages containing voted ballots, paper record copies of voted polling place ballots, vote by mail and provisional ballot envelopes, and spoiled, canceled, or unused vote by mail ballots surrendered by the voter shall be destroyed six months after the date of the election if no contest or criminal action has been commenced in that period. (Elec. Code § 17302.)
- G. For an election for federal offices, two tally sheets, the copy of the index used as the voting record, the challenge lists, and the assisted voters' list may be destroyed 22 months after the date of the election if no contest or criminal action has been commenced in that period. (Elec. Code § 17303.)
- H. For state or local elections, two tally sheets, the copy of the index used as the voting record, the challenge lists, and the assisted voters' list may be destroyed six months after the date of the election if no contest or criminal action has been commenced in that period. (Elec. Code § 17304.)
- I. For an election for federal offices, all ballot cards may be destroyed 22 months after the date of the election so long as no contest involving the vote at the election remains undetermined. (Elec. Code § 17305.)
- J. For state or local elections, all ballot cards may be destroyed six months after the date of the election so long as no contest involving the vote at the election remains undetermined. (Elec. Code § 17306.)
- K. Recall petitions may be destroyed eight months after the results of the election for which the petition qualified or, if no election is held, eight months after the elections official's final examination of the petition unless some action or proceeding is pending. (Elec. Code § 17400.)
- L. For an election for federal offices, precinct officers' declaration of intention, precinct board member applications, order appointing members of precinct boards and designating polling places, nominations for appointment to the precinct board by the County central committee of each qualified political party, and written orders appointing precinct board members or designating the polling place for the precinct may be destroyed 22 months after the date of the election. (Elec. Code § 17502.)
- M. For state or local elections, precinct officers' declaration of intention, precinct board member applications, order appointing members of precinct boards and designating polling places, nominations for appointment to the precinct board by the county central committee of each qualified political party, and written orders appointing precinct board members or designating the polling place for the precinct may be destroyed six months after the date of the election. (Elec. Code § 17503.)
- N. For an election for federal offices, all applications for vote by mail ballots may be destroyed 22 months after the date of the election. (Elec. Code § 17504.)

- O. For state or local elections, all applications for vote by mail ballots may be destroyed six months after the date of the election. (Elec. Code § 17505.)
- P. The list of new resident voters voting may be destroyed 22 months from the date of the election. (Elec. Code § 17506.)

2.12 Public Health

- A. Tuberculosis records that are more than five years old and X-ray photographs in those records may be either destroyed or offered to a public or private medical library if (1) the photographs do not show the existence of tuberculosis in an infectious stage, or (2) the individual to whom the records pertain has been deceased for at least two years, or would be more than 102 years old and the Director of Public Health cannot reasonably ascertain whether the individual is still living, or (3) the patient's place of residence has been unknown for at least 10 years. (Health & Safety Code § 123150.)
- B. Copies of lab reports filed with the State Board of Public Health, with the authorization of the Board of Supervisors may be destroyed two years after filing of the reports. (Gov. Code § 26202.)
- C. Records concerning the manufacture, prescription, or administration of controlled substances may be destroyed upon authorization by the Board of Supervisors three years after records are made. (Bus. & Prof. Code § 4105.)
- D. Records of patient treatment may be destroyed upon authorization by the Board of Supervisors seven years from discharge or, if the patient is under 21, not prior to the patient's attaining age 21. (Health & Safety Code § 1457; 22 C.C.R. 75343, 70751, 72543.)

2.13 Behavioral Health and Recovery Services

The Behavioral Health and Recovery Services Department shall maintain and destroy mental health records in accordance with the current contract between the County and the Department of Health Care Services or as otherwise specifically provided by law.

2.14 Probation

- A. A record concerning a minor may be destroyed five years after the date on which the jurisdiction of the juvenile court over the minor is terminated. The probation officer may destroy all records in the proceeding concerning the minor. Upon order of the Court, records concerning minors subject to Welfare and Institutions Code section 300 or 600 may be destroyed when the subject attains the age of 28 (Welf. & Inst. Code § 300) or the age of 21 (if the minor is determined to come within Welf. & Inst. Code § 601) or the age of 38 (if the minor is determined to come within Welf. & Inst. Code § 602). (Welf. & Inst. Code § 826.) If the subject of the record was alleged or adjudged to be a person described by section 601, five years after the record was ordered sealed, records shall be destroyed. (Welf. & Inst. Code § 781(d).) If the subject of the record was found to be a person described in Welfare and Institutions Code section 602 because of the commission of an offense listed in Welfare and Institutions Code section

707(b) when he or she was 14 years of age or older, the record shall not be destroyed. (Welf. & Inst. Code § 781(d).)

- B. Probation records concerning adults may be destroyed five years after termination of probation. (Pen. Code § 1203.10.)
- C. Recordings of routine video monitoring may be destroyed after one year upon authorization by the Board of Supervisors with written consent of County Counsel. In the event that the recordings are evidence in any claim filed or any pending litigation, they shall be preserved until pending litigation is resolved. (Gov. Code § 26202.6.)
- D. Recordings of telephone and radio communications may be destroyed after 100 days upon authorization by the Board of Supervisors with written consent of County Counsel. In the event that the recordings are evidence in any claim filed or any pending litigation, they shall be preserved until pending litigation is resolved. (Gov. Code § 26202.6.)

2.15 Purchasing Agent and General Services

- A. Requisitions may be destroyed after three years upon authorization by the Board of Supervisors. (Gov. Code § 25501.5.)
- B. Bids may be destroyed after two years upon authorization by the Board of Supervisors. (Gov. Code § 26202.)
- C. Price agreements may be destroyed after two years from the date of termination of the agreement upon authorization by the Board of Supervisors. (Gov. Code § 26202.)

2.16 Public Administrator

- A. All receipts and records of expenditures may be destroyed upon authorization by the Board of Supervisors not less than three years after disposition of the property pursuant to Probate Code section 7663. (Prob. Code § 7665(b).)
- B. Records of property delivered and the status and identity of the person to whom the property is delivered may be destroyed upon authorization by the Board of Supervisors not less than three years after the date of delivery of the property. (Prob. Code § 330(d).)

2.17 Recorder

- A. Federal tax liens and releases for tax liens may be destroyed after eight years have elapsed since the lien was filed if the unreleased liens have been microfilmed. (Gov. Code § 27206.)
- B. Documents left for recording that cannot be returned to owner may be destroyed 10 years from date of recording. (Gov. Code § 26205.6(a).)

- C. Contracts, plans, specifications, and bonds under which the work or improvement was performed may be destroyed within five years from date of filing such documents for recordation if the Recorder has been unable to deliver them to the person who filed them as required by law and if the Recorder has not been notified in writing to retain them by someone claiming an interest under the contract or in the property affected. (Gov. Code § 27205.)

2.18 Sheriff

- A. Complaints of peace officer misconduct and reports of investigations into such misconduct shall be maintained for at least five years, where there was not a sustained finding of misconduct and for not less than 15 years where there was a sustained finding of misconduct. A record shall not be destroyed while a request related to that record is being processed or any process or litigation to determine whether the record is subject to release is ongoing. Such records may thereafter be destroyed upon authorization by the Board of Supervisors. (Pen. Code § 832.5; Gov. Code § 26202.)
- B. Recordings of routine video monitoring may be destroyed after one year upon authorization by the Board of Supervisors with written consent of County Counsel. In the event that the recordings are evidence in any claim filed or any pending litigation, they shall be preserved until pending litigation is resolved. (Gov. Code § 26202.6.)
- C. Recordings of telephone and radio communications may be destroyed after 100 days upon authorization by the Board of Supervisors with written consent of County Counsel. In the event that the recordings are evidence in any claim filed or any pending litigation, they shall be preserved until pending litigation is resolved. (Gov. Code § 26202.6.)

2.19 Treasurer/Tax Collector

The Treasurer/Tax Collector is authorized to destroy those records enumerated in Board of Supervisors' Resolution 99-323.

LITIGATION HOLD PROCEDURE

1. Duty to Preserve Documents:

A. The County, its departments, and employees have a legal duty to preserve all documents that they know or reasonably should know may be relevant to pending or reasonably anticipated litigation, as soon as the County, through its Board of Supervisors, departments, or employees, (1) is notified of litigation or facts suggesting potential litigation, (2) reasonably anticipates litigation, or (3) receives a demand for documents pursuant to a statutory or administrative requirement, such as a subpoena for production of documents.

B. The duty to preserve documents/records is not limited to the actual commencement of litigation. In other words, if the County, its departments, or employees receive information that would reasonably suggest that litigation is possible, the duty to preserve is triggered. Triggering events include, but are not limited to, a subpoena for the production of documents issued or promulgated by the Attorney General, or any other State department pursuant to California Government Code section 11181, the presentation of a claim, receipt of Notice of Intent to Sue letters, notice that a personnel matter has been filed with the Equal Employment Opportunity Commission (EEOC) or the California Civil Rights Department (CRD), or receipt of any correspondence that suggests litigation is reasonably foreseeable. The duty to preserve documents/records can, however, be triggered before an employee files a complaint if the County became aware of the possibility of litigation before such a complaint was filed.

2. When Litigation Holds are Triggered

A. When a County department or employee learns facts that reasonably suggest that litigation is possible, or receives a demand for documents pursuant to a statutory or administrative requirement, such as a subpoena for production of documents pursuant to Government Code section 11181, the department and employee are obligated to inform County Counsel. As soon as a department or an employee is aware of potential litigation or receives a demand for documents pursuant to a statutory or administrative requirement, the department and the employee are obligated to preserve all records that might relate to the anticipated litigation or request, including ESI, and suspend the destruction of documents/records related to the litigation or request. Preservation of ESI requires more than simply refraining from efforts to destroy or dispose of such evidence. A department must intervene to prevent loss due to routine operations and employ proper techniques and protocols suited to protection of ESI. This includes, but is not limited to, disabling any automatic deletion of ESI on any County-owned or Employee-owned devices used in the course and scope of County employment, preserving potentially relevant data from portable devices such as laptops and smartphones, and backing up any failing hardware before destroying it.

B. Similarly, as soon as County Counsel or Risk Management advises a department or an employee of the threat of litigation or reasonably anticipated litigation, or receives a demand for documents pursuant to a statutory or administrative requirement, the department and its employees are obligated to preserve all documents/records that might relate to the anticipated litigation or demand,

including ESI, and suspend the destruction of documents/records related to the litigation or demand. This includes, but is not limited to, disabling any automatic deletion of ESI on any County-owned or Employee-owned devices used in the course and scope of County employment, preserving potentially relevant data from portable devices such as laptops and smartphones, and backing up any failing hardware before destroying it.

C. When a department or an employee learns of pending or reasonably anticipated litigation, or receives a demand for documents pursuant to a statutory or administrative requirement, or when County Counsel requests a department or an employee to institute a Litigation Hold, the department and the employee must promptly contact and coordinate with department personnel, including information-technology staff, to implement the Litigation Hold.

D. The steps necessary to comply with the County's obligation to preserve relevant evidence will vary depending on the case, changes in technology, and changes in the law, and thus may require procedures or other actions beyond those listed in this Bulletin. If a department or an employee is uncertain whether documents must be preserved, they must consult with County Counsel, who will provide the department or employee with direction regarding the nature and scope of records to be preserved pursuant to a Litigation Hold.

3. Implementation of Litigation Hold

A. Once it is determined that a litigation hold is to be implemented, the responsible department must determine (a) the locations of ESI and other documents that are relevant to the claims and defenses at issue in the litigation or demand, and (b) the best manner of preserving these materials, proportional to the needs of the case. A department must then act immediately to preserve all potentially relevant documents and materials. The department should anticipate the need to disclose and produce system and application metadata and act to preserve it. As hard copies do not preserve electronic search ability or metadata, they are not an adequate substitute for, or cumulative of electronically stored versions. If information exists in both electronic and paper forms, the department shall preserve both forms.

B. When a litigation hold is triggered, a department must act diligently and in good faith to secure and audit compliance with such a litigation hold in consultation with County Counsel. In all matters in which a litigation hold is implemented, the responsible department shall keep a contemporaneous, written record of: (i) compliance with the litigation hold, with supporting documentation and correspondence identifying the data sources and other categories of materials subject to the litigation hold, (ii) the steps taken to preserve these materials in execution of the litigation hold, (iii) the dates each of these steps was taken, (iv) the person or persons who executed each step, and (v) the date(s) the litigation hold is modified or rescinded.

C. Only County Counsel can release Litigation Holds once implemented.

APPENDIX A
Enterprise Content Management System Standard

I. Definitions

- A. “Audit trail” means an electronic log that chronologically tracks the sequence of interactions with records within an electronic system so that any access to the record within the electronic system can be documented as it occurs or after the event or activity has occurred. An audit trail may identify unauthorized, as well as authorized, actions in relation to the records, e.g., access, modification, deletion, or addition.
- B. “Authentic” means the quality of a document that allows it to be established as equal to the original, completely free from any addition, deletion, modification, or corruption.
- C. “Destruction” means the action or process of causing so much damage to the data that it no longer exists and cannot be repaired or recovered. The method of destruction will vary depending on the storage medium used (i.e paper, magnetic tape, chip, hard disk) as per NIST Special Publication 800-88 Revision 1.
- D. “Trustworthy Enterprise Content Management system” means a trusted system that ensures all electronically-stored information can be considered to be a true and accurate copy of the original information received, regardless of the original format, as determined by County Information Technology Services (ITS).
- E. “Trusted system” means a system used to store electronic information in an accurate, consistent, complete, reliable, and usable/readable manner, ensuring integrity over time.

II. Standard

ITS shall use the following standard to determine whether a system qualifies as a Trustworthy Enterprise Content Management System:

- The Enterprise Content Management (“ECM”) system shall be able to support the metadata requirements of the record.
- The ECM system shall write at least one copy of the electronic or “digitally born” document or record into electronic media that guarantees the original record can be recalled completely, accurately, and readily regardless of the original electronic document format.
- The ECM system shall provide access to the original document version that has not been materially changed.
- Hard copy documents shall be scanned into an electronic system and will be stored in their original unaltered format. The system may provide software which can correct or de-skew poor quality, but not modify the original document. The modified document may be stored in the ECM as a subsequent version of the original so that it may be more easily viewed. The ECM

system shall have authenticated access control to access records. Only authorized individuals will have access to read, create, edit, and delete record folder components and their non-system generated identifiers.

- In the case of multi-tenancy, the ECM system shall provide the appropriate role based access control.
- The ECM shall provide multi-user or concurrent access to documents.
- The ECM system shall provide auditing capability, which is the ability to create an audit trail, for all documents and activity within the system. The ECM System shall present a second confirmation requiring authorized individuals to confirm the delete command before the destruction operation is executed for records approved for destruction.
- The ECM system shall be capable of exporting any or all documents and records within the ECM system.
- The ECM system shall include the capability to provide open standards interfaces in order to integrate into an organization's information technology enterprise.
- The ECM shall be supported in or compatible with a virtualized environment.

III. List of Trustworthy Enterprise Content Management Systems As Determined by ITS

The following list contains the current Trustworthy Enterprise Content Management Systems as determined by ITS. ITS shall update this list every two years.

- Application Extender
- BMI Imaging Systems
- Business Property Systems
- CAMS (account management system)
- CashFlow
- Computer Aided Dispatch System (CAD)
- Conduent
- Dell/EMC Application Extender Suite
- eDrawer
- Fire Records Management (RMS)
- KAPS
- Laserfiche
- Qualtrax
- Questys
- Questys ECMx 11.3
- Scanned Document Business Process
- Search Express
- Telestaff

IV. Additional References

- California Local Government Records Management Guidelines
- ISO 15801

- ANSI 25-2102
- NIST SP 800-88 Rev. 1

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