



Australian Government

National Archives of Australia

Records Authority
2011/00642501

**Office of the Commonwealth
Director of Public Prosecutions**

April 2012

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INTRODUCTION

The Office of the Commonwealth Director of Public Prosecutions (CDPP) and the National Archives of Australia have developed this Records Authority to set out the requirements for keeping or destroying records for the core business areas of Prosecution, Criminal Confiscation, Law Reform, and Practice Governance and Management. It represents a significant commitment on behalf of the CDPP to understand, create and manage the records of its activities.

This Authority is based on the identification and analysis of the business of the CDPP. It takes into account the agency's legal and organisational records management requirements, and the interests of stakeholders, the agency and the National Archives of Australia.

The Authority sets out those records that need to be retained as national archives and specifies the minimum length of time that temporary records need to be kept. This Authority gives the CDPP permission under the *Archives Act 1983*, for the destruction of the temporary records described after the minimum retention period has expired. Retention periods for these temporary records are based on: an assessment of business needs; broader organisational accountability requirements; and community expectations, and are approved by the National Archives of Australia on the basis of information provided by the agency.

As changes in circumstances may affect future records management requirements, the periodic review of this Authority is recommended. All amendments must be approved by the National Archives.

APPLICATION OF THIS AUTHORITY

1. This Authority supersedes Records Authorities 623 (1992) and 724 (1991). The superseded authorities cannot be used by the CDPP to sentence records after the date of issue of this Authority.
2. This Authority is to be used to sentence records. Sentencing involves the examination of records in order to identify the individual disposal class to which they belong. This process enables sentencers to determine how long records need to be kept. Advice on sentencing is available from the National Archives.
3. This Authority should be used in conjunction with general records authorities such as:
 - the Administrative Functions Disposal Authority (AFDA) and/or AFDA Express issued by the National Archives to cover business processes and records common to Australian Government agencies;
 - General Records Authority (31) *For source (including original) records after they have been copied, converted or migrated.*
4. The Normal Administrative Practice (NAP) provision of the *Archives Act 1983* gives agencies permission to destroy certain records without formal authorisation. This usually occurs where records are duplicated, facilitative or for short-term use only. NAP does not replace arrangements agreed to in this Authority but can be used as a tool to assist in identifying records for destruction together with an agency's Records Authority or Authorities, and with AFDA and AFDA Express. The National Archives recommends that agencies develop and implement a Normal Administrative Practice policy. Advice and guidance on destroying records as a normal administrative practice and on how to develop an agency NAP policy is available from the National Archives' website at www.naa.gov.au
5. Records that are reasonably likely to be needed as evidence in a current or future judicial proceeding or are subject to a request for access under the *Archives Act 1983*, the *Freedom of Information Act 1982* or any other relevant Act must not be destroyed until the action has been completed.
6. Records subject to a disposal freeze must not be destroyed until the freeze has been lifted. Further information about disposal freezes and whether they affect the application of this Authority is available from the National Archives website at www.naa.gov.au.
7. Where the method of recording information changes (for example from a manual system to an electronic system, or when information is migrated from one system to a new system) this authority can still be applied, providing the records document the same core business. The information must be accessible for the period of time prescribed in this Authority. The CDPP will need to maintain continuing access to the information, including digital information, for the periods prescribed in this records authority or until the information is transferred into the custody of the National Archives.

8. In general, retention requirements indicate a minimum period for retention. The CDPP may extend minimum retention periods if it considers that there is an administrative need to do so, without further reference to the National Archives. Where the CDPP believes that its accountability will be substantially compromised because a retention period or periods are not adequate, it should contact the National Archives for review of the retention period.

9. Records coming within 'Retain as national archives' classes in this Authority have been determined to be part of the archival resources of the Commonwealth under section 3C of the *Archives Act 1983*. The determination of Commonwealth records as archival resources of the Commonwealth obliges agencies to transfer the records to the Archives when they cease to be current and, in any event, within 15 years of the records coming into existence, under section 27 of the *Archives Act 1983*.

10. Records in the care of agencies should be appropriately stored, managed and preserved. Agencies need to meet this obligation to ensure that the records remain authentic and accessible over time. Under Section 31 of the *Archives Act 1983*, access arrangements are required for records that become available for public access including those records that remain in agency custody.

11. Appropriate arrangements should be made with the National Archives when records are to be transferred into custody. The National Archives accepts for transfer only those records designated as national archives.

Advice on how to use this Authority is available from the CDPP records manager. If there are problems with the application of the Authority that cannot be resolved, please contact the National Archives.

CONTACT INFORMATION

For assistance with this authority or for advice on other records management matters, please contact National Archives' Agency Service Centre.

Queen Victoria Terrace
Parkes ACT 2600
PO Box 7425
Canberra Mail Centre ACT 2610

Tel: (02) 6212 3610
Fax: (02) 6212 3989
Email: recordkeeping@naa.gov.au
Website: www.naa.gov.au

AUTHORISATION

RECORDS AUTHORITY 2011/00642501

Person to whom notice of authorisation is given:

Christopher Craigie SC
Director
Office of the Commonwealth Director of Public Prosecutions
4 Marcus Clarke St
Canberra City ACT 2601

Purpose:

Authorises arrangements for the disposal of records in accordance with Section 24(2)(b) of the *Archives Act 1983*

Determines records classed as 'Retain as national archives' in this Records Authority to be part of the archival resources of the Commonwealth under section 3C of the *Archives Act 1983*.

Application:

All core business records relating to Criminal Confiscation, Law Reform, Practice Governance and Management, Prosecution.

This authority gives permission for the destruction, retention or transfer to the National Archives of Australia of the records described. This authority will apply only with the consent of the agency currently responsible for the business documented in the records described.

Authorising Officer



David Fricker
Director-General
National Archives of Australia

Date of issue:

5 APRIL 2012

CRIMINAL CONFISCATION

The core business of depriving persons of the proceeds and benefits of criminal activity according to relevant Commonwealth legislation. Includes working closely with investigating agencies such as the Australian Federal Police and the Australian Crime Commission such as providing legal advice and other support to investigative agencies to help them locate and collect the evidence and other material required to pursue the proceeds of crime. It also includes ongoing support received from the investigative agencies to the Federal prosecutor, both up to and after final confiscation orders have been made. Also includes working closely with the insolvency and trustee agency responsible for securing, managing and realising restrained property.

Includes:

- Advice, liaison and meetings with investigative agencies
- Memorandum of Understanding with investigative agencies
- Appeals
- Applications and other tasks under the relevant Commonwealth legislation
- Committees
- Mutual assistance requests
- Recovery of proceeds of crime

Class no	Description of records	Disposal action
57281	<ul style="list-style-type: none"> • Criminal asset confiscation case registers and other summary information relating to the confiscation of criminal assets maintained in agency systems such as the Criminal Asset Recording System (CARS). • Other cases that are of widespread public interest, set precedents or relate to offences not previously known to Commonwealth law. 	Retain as National Archives.
57282	<p>Records documenting action or proposed action to recover the proceeds of crime, including appeals.</p> <p>Excludes records covered under class 57281.</p>	Destroy 5 years after last action where no court action is taken or 10 years after court action is completed.
57283	<p>Records documenting:</p> <ul style="list-style-type: none"> • routine operational administrative tasks supporting the core business; and • criminal confiscation activities other than those covered in classes 57281 to 57282. 	Destroy 7 years after last action

LAW REFORM

The core business of contributing to law reform. Using its experience in conducting prosecutions in all jurisdictions, the agency provides Government and other stakeholders with advice into the practical operation of existing and proposed laws, so that Commonwealth laws remain clear, consistent and practical. Involves provision of advice on the the practical implications of existing offences, new policy proposals, and proposed offences. Involves consulting with specialist law reform bodies providing feedback to policy formulators and law-makers about the operation of Commonwealth offences and the agency's experience working with these laws in the courts, liaising with bodies carrying out inquiries, and participating in them.

Includes:

- Providing advice about the practical implications of existing legislation, new policy proposals and proposed legislation
- Commenting on legislative proposals and draft legislation
- Participating in reviews and inquiries including submissions to Government and Parliament and major bodies such as the Law Reform Commission
- Participating in interdepartmental committees and working groups where law reform issues are raised

Class no	Description of records	Disposal action
57287	Records documenting the provision of advice about the practical implications of existing legislation, new policy proposals and proposed legislation involving key Acts such as the Criminal Code 1995, the Crimes Act 1914, the Director of Public Prosecutions Act 1983, the Proceeds of Crime Act 1987 and the Proceeds of Crime Act 2002. Includes submissions to Government, Parliament and major bodies such as the Law Reform Commission.	Retain as National Archives
57288	Records documenting the provision of advice about the practical implications of existing legislation, new policy proposals and proposed legislation involving other Acts that are not key Acts of the type described in class 57287.	Destroy 20 years after last action or legislation repealed, whichever is the later
57289	Records documenting: <ul style="list-style-type: none"> • routine operational administrative tasks supporting the core business; and • law reform activities other than those covered in classes 57287 to 57288. 	Destroy 7 years after last action

PRACTICE GOVERNANCE AND MANAGEMENT

The core business of providing support for the legal, policy and liaison responsibilities of the agency. Includes conforming to the agency's strategic directions which include conducting cases ethically and professionally and providing effective professional assistance to referring agencies and whole of government law enforcement activities. Includes the training of prosecutors, maintaining working relationships with investigating agencies and departments, and maintaining manuals and policies which assist law enforcement agencies in their role in investigating offences.

Includes:

- Audits
- Providing legal and strategic advice in significant and sensitive prosecutions
- National liaison with referring investigative agencies including head of agency meetings
- Committees related to practice governance and management such as the Best Practice Review Committee
- Contributions to external reviews and frameworks such as the Commonwealth Organised Crime Strategic Framework (COCSF)
- Coordinating the review of national policies and guidelines
- Designing and implementing national training programs for prosecutors and agencies.
- Providing specialist coordination, advice and training in specific areas of practice
- Assisting with the sharing of knowledge and experience
- Evaluating and monitoring performance
- National coordination
- National coordination and liaison in relation to witness assistance
- Collecting and analysing statistical information regarding commonwealth prosecutions
- Ensuring proper disclosure in prosecutions
- Maintaining and monitoring compliance with the Prosecution Policy of the Commonwealth
- Memoranda of understanding
- Reporting either internally or externally on whole of agency issues and activities

Class no	Description of records	Disposal action
57284	Records documenting the formulation of strategic policy and advice regarding the exercise of the functions of the Director. These include the Prosecution Policy of the Commonwealth, guidelines on official conduct for the agency, and policies in relation to criminal confiscation action. <ul style="list-style-type: none"> • Addresses and speeches delivered by the Minister or the Director. • Contributions to external reviews and frameworks • Legal and strategic advice relating to significant or sensitive prosecutions. • National and international co-ordination and liaison relating to significant or sensitive prosecutions. 	Retain as National Archives
57285	Records documenting tasks that support the legal, policy and liaison responsibilities of the agency other than those described in class 57284 and that need to be kept long term for accountability, evidentiary or other business purposes, including: <ul style="list-style-type: none"> • Evaluating and monitoring the performance of the agency 	Destroy 20 years after last action

PRACTICE GOVERNANCE AND MANAGEMENT

Class no	Description of records	Disposal action
	<ul style="list-style-type: none"><li data-bbox="347 344 932 383">• Maintaining and monitoring policy compliance<li data-bbox="347 394 783 432">• Final internal and external audits.	
57286	Records documenting: <ul style="list-style-type: none"><li data-bbox="347 510 1214 568">• routine operational administrative tasks supporting the core business; and<li data-bbox="347 591 1161 649">• practice governance and management activities other than those covered in classes 57284 to 57285.	Destroy 7 years after last action

PROSECUTION

The core business of prosecuting alleged criminal offences against Commonwealth laws including the laws of Jervis Bay and Australia's external Territories as specified in Commonwealth law. This also includes prosecutions under State and Territory laws involving a Commonwealth agency. Prosecutions are conducted through Magistrates and Local Courts, Supreme Courts, the Federal Court and the High Court and includes appearances at mentions, bail, summary matters, committals, trials and appeals. It involves close liaison with investigative agencies including police, crime and security agencies and relevant Commonwealth departments such as those responsible for social security and taxation. Offences prosecuted include: endangering the security of the Commonwealth including terrorism, espionage and treason; crimes against humanity including war crimes; the importation of serious drugs; frauds on the Commonwealth including tax and social security fraud; commercial prosecutions; people trafficking; people smuggling and a range of regulatory offences.

Includes:

- Appeal cases
- Arrangements for prosecutions conducted by Commonwealth agencies and by State or Territory agencies on behalf of the CDDP
- Assessing evidence
- Drafting charges
- Extradition requests
- Preparing cases for hearing
- Liaison and meetings with investigative and referring agencies on specific cases
- Committees and working groups of relevant agencies on specific cases
- Legal advice and assistance to and from investigating agencies such as assisting with the preparation of draft documents
- Contact with victims and defendants as required including meetings and correspondence to research and advance prosecution case and to advise about the prosecution process
- Mutual Assistance requests
- Personal exercise of a statutory function by the Director.

Class no	Description of records	Disposal action
57272	<ul style="list-style-type: none"> • Case registers, other case control records and summary case information maintained in agency case management systems such as the Case Recording Information Management System (CRIMS). • Case files and other supporting records documenting the personal exercise by the Director of a statutory function. Includes cases involving terrorism, espionage and treason; crimes against humanity including war crimes; the importation of serious drugs, and people trafficking • Other cases that are of widespread public interest, set precedents or relate to offences not previously known to Commonwealth law. 	Retain as National Archives.
57274	<p>Records documenting outgoing extradition requests.</p> <p><i>For extradition cases involving the personal exercise by the Director of a statutory function, or that are of widespread public interest, set precedents or relate to offences not previously known to Commonwealth law, use Class 57272</i></p>	Destroy at same time as prosecution file or if person is not returned 15 years after last action.

PROSECUTION

Class no	Description of records	Disposal action
57273	Records documenting incoming extradition requests.	Destroy 10 years after last action.
57275	Case files for matters prosecuted on indictment including appeals (this includes matters considered but not proceeded with) other than those dealt with in class 57272.	Destroy 5 years after last action or 10 years after sentence or any other order made is completed, whichever is the later
57276	Records documenting the payment and monitoring of fines, pecuniary penalties and costs as ordered by courts in relation to prosecutions of an offender.	Destroy 7 years after last action
57277	Records documenting requests for assistance from other countries to assist in the investigation and prosecution of criminal offences and to recover the proceeds of crime.	Destroy 5 years after last action
57278	Records documenting requests by Australia to other countries to assist in the investigation and prosecution of criminal offences and to recover the proceeds of crime. <i>For cases involving the personal exercise by the Director of a statutory function, or that are of widespread public interest, set precedents or relate to offences not previously known to Commonwealth law, use class 57272.</i> <i>For other related case files use classes 57275, 57279 or 57282 (CRIMINAL CONFISCATION) as appropriate</i>	Destroy at the same time as case file or if no prosecution, 10 years after last action
57279	Case files for matters prosecuted summarily, including appeals (this includes matters considered but not proceeded with).	Destroy 3 years after last action or 6 years after sentence or any other order made is completed whichever is the later.
57280	Records documenting: <ul style="list-style-type: none"> • routine operational administrative tasks supporting the core business; and • prosecution activities other than those covered in classes 57272 to 57279. 	Destroy 7 years after last action.