



Australian Government

National Archives of Australia

Records Authority

2024/00032523

**Criminal Justice Policies and
Programs**

Attorney-General's Department

2024



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CONTENTS

INTRODUCTION.....	4
APPLICATION OF THIS AUTHORITY	4
CONTACT INFORMATION	5
AUTHORISATION	6
CRIMINAL JUSTICE POLICIES AND PROGRAMS	7

INTRODUCTION

The Attorney-General's Department (the Department) 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 of Criminal Justice Policies and Programs. It represents a significant commitment on behalf of the Department to understand, create and manage the records of its activities.

This authority is based on the identification and analysis of the business of the Department. It takes into account the agency's legal and organisational information management requirements, and the interests of stakeholders, the agency and the National Archives.

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 Department 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 on the basis of information provided by the agency.

As changes in circumstances may affect future information 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 replaces the Crime Prevention and Law Enforcement functions in the previously issued records authority RA 2002/04572652. These functions have been superseded and cannot be used to sentence records after the date of issue of this authority.
2. This authority also replaces the following classes in the Information Collection, Legal Case Management, Legal Counsel, and Legal Liaison functions. Classes 3388, 3471, 3472, 3473, 3492, 3493, 3509, 3526, 3541 and 3556 have been superseded and cannot be used to sentence records after the date of issue of this authority.
3. This authority is to be used to determine how long records must be kept. Records are matched to the relevant core business and records class in the authority.
 - Where the minimum retention period has expired and the records are not needed for the Department's business they should be destroyed as authorised in this authority.
 - Records that have not reached the minimum retention period must be kept until they do.
 - Records that are identified as 'retain as national archives' are to be transferred to the National Archives for preservation.
4. This authority should be used in conjunction with general records authorities such as:
 - *Administrative Functions Disposal Authority (AFDA) Express Version 2* issued by the National Archives to cover business processes and records common to Australian Government agencies; and
 - *General Records Authority 31 - Destruction of source or original records after digitisation, conversion or migration* (2015).
5. 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 Express Version 2*. The National Archives recommends that agencies develop and implement a NAP policy. Advice and guidance on destroying records as a normal administrative practice and on how to develop a NAP policy is available from the National Archives' website at www.naa.gov.au.

6. 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.
7. 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.
8. Where the method of recording information changes (for example from an analogue system to a digital 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 Department 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.
9. In general, retention requirements indicate a minimum period for retention. The Department 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 Department 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.
10. Records identified as 'retain as national archives' class 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 National 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*.
11. 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.
12. 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. Records created digitally after 1 January 2016 can be transferred in digital formats only.
13. Advice on how to use this authority is available from the Department's information 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 information management matters, please contact National Archives' [Agency Service Centre](#).

AUTHORISATION

Records Authority 2024/00032523

Notice of authorisation

Person to whom notice of authorisation is given:

Katherine Jones PSM
Secretary
Attorney-General's Department
Robert Garran Offices
3-5 National Circuit
BARTON ACT 2600

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 records relating to Criminal Justice Policies and Programs.

Authority

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.

This document has been authorised through a digital workflow (R77332024).

Authorising Officer	Date of issue
Celia Blake Assistant Director-General (a/g), Collection Management National Archives of Australia	24 January 2024

CRIMINAL JUSTICE POLICIES AND PROGRAMS

The function of developing, delivering, monitoring, reviewing, evaluating and reporting on legal frameworks, policies, programs and other initiatives to regulate, administer, maintain, reform and coordinate the Commonwealth's responsibilities in Australia's criminal justice system.

The Australian criminal justice system comprises the state/territory and Australian Government institutions, agencies, departments and personnel responsible for dealing with victims of crime, persons accused or convicted of committing a crime, and related issues and processes. Criminal law is administered principally through the federal, state and territory police, the courts, and state and territory corrective services. The federal criminal justice system deals with offences against Commonwealth laws.

The **core activities** include:

- developing policy, administering laws, and providing advice in relation to criminal justice, law enforcement and transnational crime matters such as:
 - oversight of Commonwealth criminal law and sections of criminal code legislation including offences in relation to foreign bribery, war crimes, crimes against humanity, genocide, torture, and general principles of criminal responsibility (excluding in relation to national security);
 - spent convictions, euthanasia-related laws, proposals for new criminal offences, cybercrime and online harms, witness protection, firearms, illicit drugs, money laundering, terrorism financing, proceeds of crime, protection of vulnerable people in the criminal justice system including victims of child sexual abuse, law enforcement powers and the Attorney-General's consent to prosecute;
 - electronic surveillance, telecommunications interception, and mandatory data retention by telecommunications providers; and
 - international crime cooperation, including extradition, mutual legal assistance in criminal matters and international transfer of prisoners (excluding casework and litigation);
- coordinating and supporting crime prevention, law enforcement and criminal intelligence programs, initiatives and activities within and across jurisdictions, including:
 - information gathering and sharing such as Australian and international cross-border data policy for law enforcement and international engagement and policy on exchange of electronic data and evidence;
 - support to or participation in cross-agency and cross-jurisdiction forums. Excludes those where the agency provides secretariat or is the Australian government's main representative; and
 - stakeholder engagement and collaborative activities such as the Justice Policy Partnership and national approaches such as strengthening and harmonising criminal laws across jurisdictions;
- leading and supporting international cooperation in law enforcement and criminal law, including:
 - the negotiation, ratification and monitoring of treaties and agreements;
 - support to, or participation in, international conferences and forums such as the United Nations Commission on Crime Prevention and Criminal Justice, Financial Action Task Force and the Asia-Pacific Group on Money Laundering; and
 - activities in support of key bilateral relationships and instruments;
- administering matters relevant to accessing and intercepting electronic data and other requirements of relevant legislation such as the *Telecommunications (Interception and Access) Act 1979* including:
 - establishment and operations of the Australian Designated Authority and management of International Production Orders; and
 - administration of Interception Capability Plans, warrant reporting, annual reporting, Mandatory Data Retention Framework, Office of Communications Access Coordination and industry assistance;

CRIMINAL JUSTICE POLICIES AND PROGRAMS

- managing and determining applications for approval by the Attorney-General to import prescribed types of firearms and firearm-related articles, and other matters relating to firearms such as participation in the National Firearms Agreement and the National Permanent Firearms Amnesty;
- administering proceeds of crime expenditure under relevant legislation such as the *Proceeds of Crime Act 2002* and policies related to proceeds of crime and criminal asset confiscation; and
- administering legislation, regulations, court orders and other legal instruments and ensuring or verifying compliance with these.

The performance of the function is supported by **general activities** such as:

- authorising and reviewing decisions and actions;
- identifying and progressing policy on emerging and ongoing issues;
- developing, researching and drafting information products such as newsletters, guidelines and websites;
- consulting and liaising with stakeholders across government and other sectors;
- providing funding other than grants;
- undertaking research and analysis;
- planning and reporting;
- evaluating and reviewing;
- managing risks;
- planning, conducting, and facilitating audits; and
- managing business systems and datasets which support the function.

Cross references to other Attorney-General's Department records authorities

For the provision of legal services to Government such as legal advice and opinions, representation, and litigation, use LEGAL SERVICES TO GOVERNMENT.

For handling legal casework in relation to international treaties and obligations; legal interventions and representation; extradition; international mutual assistance; international transfer of prisoners; child abduction custody, access and maintenance; and federal offender cases, use LEGAL SERVICES TO GOVERNMENT.

For providing and administering grant funding to achieve aims and objectives that are consistent with government policy and legislation and where recipients are required to act in accordance with specified terms or conditions for the funding received, use GRANTS MANAGEMENT.

For records relating to the intelligence function, including intelligence products and records documenting their preparation and distribution, use General Disposal Authority No. 21 RECORDS RELATING TO THE INTELLIGENCE FUNCTION IN ANY COMMONWEALTH AGENCY.

For records relating to anti-terrorism, high risk terrorist offenders, national security information, security law and policy, and international co-operation activities across these fields, use NATIONAL AND PROTECTIVE SECURITY.

Cross references to AFDA Express Version 2

For providing and receiving advice, including advice provided to Cabinet, the portfolio Minister and other government agencies, including providing advice on the appointment, reappointment or termination of individuals to boards, committees and statutory positions administered by the Department, use EXTERNAL RELATIONS.

For managing the preparation and passage of the Department's legislation through Parliament, including preliminary drafting instructions, proposed bills, consultation with relevant government agencies and stakeholders, preparation of the Explanatory Memorandum, regulatory impact statements and Second Reading Speech, use EXTERNAL RELATIONS.

CRIMINAL JUSTICE POLICIES AND PROGRAMS

For making formal proposals and submissions, including to national and international bodies and forums, governments, Cabinet, the portfolio Minister, agencies and other organisations, use EXTERNAL RELATIONS.

For preparing and providing advice and briefs to a Minister, government, or incoming government, use EXTERNAL RELATIONS.

For final versions of speeches presented by portfolio Ministers, members of the Government, agency heads, members of governing or advisory bodies, and senior agency staff, use EXTERNAL RELATIONS.

For high level external, including inter-government (both domestic and overseas) or inter-agency, committees, working groups and other bodies, where the agency provides the secretariat, is the Australian Government's main representative, or plays a prominent or central role, including establishment documentation, agenda, final versions of minutes, briefs, reports, recommendations, and tabled papers, use EXTERNAL RELATIONS.

For development of high-level reports, including formal reports to government relating to this function and performance (e.g., annual reports), including final approved versions, major drafts, stakeholder consultation and supporting research, use EXTERNAL RELATIONS.

For developing proposals for new legislation and amendments to existing legislation administered by the agency, including submissions prepared for the agency's executive or corporate management committee, use STRATEGIC MANAGEMENT.

Class no	Description of records	Disposal action
63144	<p>Records documenting:</p> <ul style="list-style-type: none"> • treaties, conventions, alliances and agreements to which Australia is a party or signatory and which relate to crime prevention, law enforcement and criminal intelligence programs, initiatives and activities within and across jurisdictions. Includes advice, negotiations, establishment, maintenance and review of agreements and actions. Includes matters relating to the establishment and role of the Australian Designated Authority in managing International Protection Orders; • developing, implementing and reviewing high-level or strategic plans, policies, programs, strategies, frameworks, procedures and guidelines supporting this function. Includes final versions, research, consultation, representations, white papers, discussion papers, policy papers and major drafts; • matters that have a high government and public profile or are controversial, establish precedents or result in major changes in direction or administration of programs and operations, e.g. <ul style="list-style-type: none"> • firearms buy backs or amnesties; • major changes to telecommunications interception approaches, roles or procedures; and • major changes to principles of criminal responsibility; 	Retain as national archives

CRIMINAL JUSTICE POLICIES AND PROGRAMS

	<ul style="list-style-type: none"> • final versions, major drafts and supporting data and research documentation of major evaluations, reviews, reports and audits relating to this function; • master set of primary training material for courses run for external participants such as other agencies or jurisdictions or as part of an international support program; • Ministerial authorisations, arrangements, guidelines, determinations and directions issued in relation to criminal justice matters e.g., Attorney-General authorisation of eligible judges to issue warrants for telecommunications interception; • Summary, or consolidated information derived from original sources and collated in registers, databases or discrete information sets, such as the Register of International Production Orders; and • master statistical collections and datasets showing long term trends. 	
63145	Records documenting the receipt and processing of applications for the importation of firearms and firearms-related articles, including applications that are denied.	Destroy 20 years after action completed
63146	Records documenting: <ul style="list-style-type: none"> • routine operational administrative tasks supporting the core business; and • Criminal Justice Policies and Programs activities, other than those covered in classes 63144 and 63145. 	Destroy 7 years after action completed