

RESOLUTION OF THE SAN ANSELMO TOWN COUNCIL APPROVING THE DESTRUCTION OF CERTAIN RECORDS, DOCUMENTS, INSTRUMENTS, BOOKS, AND PAPERS, PURSUANT TO SECTIONS 34090, 34090.5, 34090.6 AND 34090.7 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA.

Whereas, the Chief of Police of the Town of San Anselmo Police Department, as Custodian of Public Record for the Town of San Anselmo, has submitted a request for authority to destroy obsolete records and;

Whereas, this request is in accordance with the procedures and requirements of Sections 34090, 34090.5, 34090.6 and 34090.7 of the California Government Code pertaining to destruction of City Records and in keeping with pertinent statutes effected by current legislation, and;

Whereas, the Chief has stipulated the useful retention period specifically for the Police Department records as outlined in Exhibit A;

NOW, THEREFORE BE IT RESOLVED,

1. Any records, documents, instruments, books or papers covered by all applicable Government Codes, including Sections 34090, 34090.5, 34090.6 and 34090.7, attached hereto, held in the Police Department and/or various departments of the City government, may be destroyed when no longer needed, providing all provisions and guidelines delineated in said Government Codes are adhered to, including any exceptions for destruction of these records, documents, instruments, books or papers and any existing statutes of limitation at the time of destruction.
2. Any changes, additions, deletions or revisions to existing Government Codes and statutes pertaining to the Destruction of records, documents, instruments, books, or papers will automatically change, revise, add or delete the applicable portions of this Resolution, including Exhibits, attached hereto, without formal submission for revision to the governing body of the Town of San Anselmo;
3. Destruction of Town records, documents, instruments, books, or papers will be carried out as a continuous, on-going process based on procedures and requirements of existing Government Codes and statutes, as of the date of approval of this Resolution;

4. This Resolution also authorizes the Police Department to purge arrest warrants according to a recall schedule established by the courts for the timely return of warrants.

I, Debra Stutsman, Clerk of the Town of San Anselmo, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the San Anselmo Town Council meeting held on the 24 day of October 2000 by the following vote, to wit:

AYES: COUNCILMEMBERS: Breen, Kilkus, Kroot

NOES: COUNCILMEMBERS: (None)

ABSENT: COUNCILMEMBERS: Chignell, Hodgins

Debra Stutsman
DEBRA STUTSMAN, Town Clerk

EXHIBIT A

RECORDS DESTRUCTION SCHEDULE TOWN OF SAN ANSELMO POLICE DEPARTMENT

California State law requires the collection and processing of certain records. As certain documents become less valuable as an information resource with the passage of time, their continued retention inhibits an agency's ability to reference more current and valuable information sources.

The Records Unit is responsible for receiving, processing, retrieving, storing and purging these documents in accordance with California law and Department General Orders.

The Police Department Records Manager is responsible for accurate filing, proper storage, timely purging and security of all Department records.

The intent of this order is to provide requirements for retention and destruction of these documents, using those sections of California State law that mandate certain time frames for specified types of records as a guideline.

If any civil or criminal action has been filed or may be filed with regards to any report, that report shall be maintained until such action has been adjudicated.

The following records shall be maintained in the manner noted below, unless otherwise excepted:

A. Reports/documents maintained indefinitely:

- a. Missing Persons not cleared
- b. Homicide Reports
- c. Active and inactive 290 registrant files
- d. Misdemeanor or felony accident reports involving on-duty employees
- e. Offenses punishable by death or life without parole, including juvenile offenders (PC 799)
- f.

The following records shall be retained for the length noted and then purged as soon as is practical.

A. Employee Background files

All components of pre-employment background files of applicants not hired shall be retained for three years from the date of completion. Background files of current employees shall be retained until employee separation. Background files on former employees shall be retained for ten years from the date of separation.

B. Employee personnel files

All components of a current or former employee's personnel file, including employee training records, shall be retained for a period of ten years from the date of separation. At the time of separation, all components of an employee's personnel file shall be consolidated and placed in storage.

C. Internal investigation files

All components of internally generated investigations shall be retained for five years from the date of completion of the investigation, except:

1. If the investigation sustains an allegation of employee misconduct, the report shall be retained for five years once the Chief of Police has determined the report is no longer required.
2. If a criminal or civil legal action has resulted from and/or is pending, the file shall be retained for five years after the conclusion of the action.
3. If an internal investigation file is destroyed, all reference to it in an employee's personnel file shall be removed.

D. Citizen complaint investigation files

All citizen complaint related investigations into employee conduct shall be retained for five years from the date of conclusion of the investigation, except:

1. If the investigation sustains an allegation of employee misconduct, the report shall be retained for five years once the Chief of Police has determined the report is no longer required.
2. If a criminal or civil legal action has resulted from and/or is pending, the file shall be retained for five years after the conclusion of the action.
3. If a citizen complaint investigation is destroyed, all reference to it in an employee's personnel file shall be removed.

E. Accident Review Boards involving employees

All Accident Review Board reports shall be retained for five years, except:

1. If the report finds that the accident was avoidable, the report shall be retained for five years once the Chief of Police has determined the report is no longer required.
2. If a criminal or civil legal action has resulted from and/or is pending, the report shall be retained for five years after conclusion of the action.
3. If an Accident Review Board report is destroyed, all reference to it in an employee's personnel file shall be removed.

F. Recordings of telephone and radio communications

Recordings of telephone and radio communications shall be retained for one hundred (100) days, except:

If any recording is evidence in any potential, pending or active criminal or civil legal action, the recording shall be preserved for one hundred (100) days after the conclusion of the action. (34090.6 G.C.)

G. The following documents shall be retained for two years:

1. Citations for moving violations and parking violations
2. Miscellaneous correspondence not related to other public records
3. Pawn and secondhand dealer transactions
4. Expired licenses for: concealed weapons permits, bicycle registrations, and business licenses
5. Notification of vehicle repossessions
6. Daily activity records, shift logs and press logs
7. Auction receipts and records.
8. All index cards and logs related to destroyed case documents.
9. Police dispatch cards.
10. Field interview cards of reports.
11. Duplicates of all reports, when the duplicates are no longer needed.
12. Audit logs for manual/automated criminal history teletypes or printouts.
13. Missing person and runaway juvenile reports where individuals have returned and have been deleted from national databases

14. Reports of lost and found items, which have been lawfully disposed of.
15. All index cards and logs relating to destroyed case reports shall be purged along with the case or report.

H. The following narcotic violation arrests shall be purged after two years, whether there was a conviction or not:

1. Reports and citations for 11357 (b),(c),(d), (e) H&S
2. Reports and citations for 11360 (b) H&S

Exception:

Reports and citations for 11357 (e) H&S by a juvenile shall be retained until offender attains age of 18 then destroyed

I. All crime and supplemental reports for infractions, misdemeanors and felonies will be destroyed after three years unless the following restrictions apply:

1. They relate to an unadjudicated arrest
2. They relate to unserved warrants
3. They involve **identifiable** items which have not been recovered
4. They related to 290 PC or 457.1 PC or
5. They relate to a criminal death case
6. They are presently involved in either civil or criminal litigation
7. Sealed records for any person found factually innocent under section **851.8 PC**

Exception: Certain incident reports may be delayed in destruction based on Penal Code sections governing statutes of limitation for commencement of prosecution:

1. **799 PC:** Offenses punishable by death or life imprisonment or for embezzlement of public money have no statute of limitation and will be retained indefinitely.
2. **800 PC:** Offenses punishable by imprisonment for 8 years or more shall be kept for 6 years after offense was committed
3. **801 PC:** Offenses punishable by imprisonment in state prison, such as for fraud or elder abuse convictions, shall be kept for 6 years after offense was committed

J. The following juvenile records will be purged as noted:

1. Sealed juvenile records for 851.7 PC, 1203.4 PC and 781 W&I will be destroyed five (5) years after juvenile court jurisdiction has terminated based on a destruction petition from the court.
 2. Sealed juvenile records pursuant to 290(d)(1) when offender was paroled or discharged after January 1, 1986, will be purged five (5) years after juvenile court jurisdiction has terminated.
- K. Records for registrants, covered by 11590 H&S, shall be destroyed five (5) years after completion of probation or parole when all requirements are met**
- a. Latent fingerprint cards for criminal cases with no suspects that do not fall under a-g above.
 - b. Audit logs for manual/automated criminal history teletypes
- L. All index cards and logs relating to destroyed case documents or reports.**
- M. Five years: (832.5 PC) and (826 (a) & (b) PC)**
- N. Sealed juvenile records (851.6, 851.7, 851.8, 1203.4 PC & 781 WI) which have been ordered destroyed by the probation officer or a petition from the court. (826 (a) & (b))**
- O. Sealed juvenile records, pursuant to 290(d)(1), when offender was paroled or discharged after January 1, 1986.**
- P. Records for registrants, covered by 11590 H&S, shall be destroyed 5 years after completion of probation or parole when all requirements are met**
- Q. Specific types of reports/offenses will be destroyed based on Penal Codes governing statutes of limitation for commencement of prosecution:**
1. PC 800 – Offenses punishable by imprisonment for 8 years or more shall be kept for 6 years after offense was committed
 2. PC 801 – Offenses punishable by imprisonment in state prison, such as fraud and elder abuse convictions, shall be kept for 6 years after offense was committed

3. 802 – Offenses not punishable by death or imprisonment; misdemeanor violation of 647.6 or 647(a) shall be kept for 2 years after offense was committed

EXHIBIT B

Government Code 34090: Destruction of City Records; excepted records; construction

“Unless otherwise provided by law, with the approval of the legislative body by resolution and the written consent of the agency attorney, the head of a city department may destroy any city record, document, instrument, book, or paper, under his charge, without making a copy thereof, after the same is no longer required.”

Those records not authorized for destruction under 34090 G.C. are:

- a. Records affecting title to real property or liens thereon;
- b. Court records;
- c. Records required to be kept by statute
- d. Records less than two (2) years old;
- e. The minutes, ordinances, or resolutions of the legislative body or of a city board or commission

This section shall not be construed as limiting or qualifying in any manner the authority provided in Section 34090.5 for the destruction of records, documents, instruments, books and papers in accordance with the procedure therein prescribed.”

Government Code 34090.5: Destruction of Records; conditions

“Notwithstanding the provisions of Section 34090, the city officer having custody of public records, documents, instruments, books, and papers, may without the approval of the legislative body or the written consent of the city attorney, cause to be destroyed any or all the records, documents, instruments, books, and papers if all the following conditions are complied with:

- a. The record, document, instrument or paper is photographed, microphotographed, or reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data-processing system, recorded on optical disk, reproduced on film or any other medium which does not permit additions, deletions, or changes to the original documents, or reproduced on film, optical disk, or any other medium in compliance with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management for records of permanent records or nonpermanent records, whichever applies.
- b. The device used to reproduce such record, document, instrument or paper on film, optical disk or any other medium is

one which accurately and legibly reproduces the original thereof in all details and which does not permit additions, deletions, or changes to the original document images.

- c. The photographs, microphotographs, or other reproductions on film, optical disk, or any other medium are made as accessible for public reference as the original records were.
- d. A true copy of archival quality of the film, optical disk, or any other medium reproductions shall be kept in a safe and separate place for security purposes.

However, no page of any record, paper, instrument, or document shall be destroyed if any page cannot be reproduced on film with full legibility. Every unreproducible page shall be permanently preserved in a manner that will afford easy reference.

For the purposes of this section, every reproduction shall be deemed to be an original record and a transcript, exemplification, or certified copy of any reproduction shall be deemed to be a transcript, exemplification, or certified copy, as the case may be, of the original.”

Government Code 34090.6 : Destruction of recorded radio and telephone communications

“Notwithstanding the provisions of Sections 26202, 26205 and 26205.1, the head of a department of a city and/or county public communications center, or the head of a special district after 100 days may destroy recordings of telephone and radio communications maintained by the department or the special district. Such destruction shall be approved by the legislative body and the written consent of the agency attorney shall be obtained. In the event that such recordings are evidence in any claim filed or any pending litigation, such recordings shall be preserved until pending litigation is resolved.

For purposes of this section, ‘recordings of telephone and radio communications’ means the routine daily taping and recording of telephone communications to and from a city, county, city and county, or special district department and radio communications relating to the operations of such departments or special district.”

Government Code 34090.7: Duplicate records less than two (2) years old; destruction; video recording media

“Notwithstanding the provisions of Section 34090, the legislative body of a city may prescribe a procedure under which duplicates of city records less than two years old may be destroyed if they are no longer required.

For purposes of this section video recording mediums, such as videotapes and films, shall be considered duplicate records if the city keeps another record, such as written minutes or an audio tape recording, of the event which is recorded in video medium. However, a video recording medium shall not be destroyed or erased pursuant to this section for a period of at least 90 days after occurrence of the event recorded thereon.”