

Retention Schedule #: 16896

Category one investigation case files

For submission to the Records Management Committee, April 2020

Agency: Office of Professional Standards (within the Department of Public Safety)

Archives RIM specialist: Kendra Yates

1. What's changing

- Retention change from 7 years to 25 years.
- One schedule split into four schedules based on agency's classification of investigations.
- Title and Description updated.

2. The retention schedule to be approved

Utah State Archives

Parent Agency: Public Safety Department
Office of Professional Standards

Agency: Department of Public Safety. Office of Professional Standards

4501 South 2700 West
Salt Lake City, UT 84119
801-965-4533

Records Officer: D. Denney

16896 Category one investigation case files

Retention Schedule(s) for the record series listed above have been examined and approved for submission to the State Records Management Committee.

BEAU MASON

Chief Administrative Officer (print)

Signature

Captain

Title

4/15/20

Date

Utah State Archives

AGENCY: Department of Public Safety. Office of Professional Standards

SERIES: 16896

TITLE: Category one investigation case files

DATES: 1936-

ARRANGEMENT: Numerical by case number.

ANNUAL ACCUMULATION: 6.00 cubic feet.

DESCRIPTION:

These records support the agency's function to investigate complaints or allegations of misconduct or improper job performance made against Department of Public Service employees, including peace officers, dispatchers, and civilian employees that, if true, would constitute a violation of Department policy or of federal, state, or local law. The agency investigates for the purpose of administering employee discipline according to policy, not for legal purposes. Allegations of misconduct of a criminal nature are investigated for legal purposes by the law enforcement agency with jurisdiction over the alleged event. The Department of Public Safety has a policy which classifies investigations into categories based on the seriousness of the allegations. This record series contains complaints or investigation requests and the resulting investigation records for the most serious allegations, classified as category one, including allegations of criminal behavior, moral turpitude, and dishonesty.

RETENTION:

Retain for 25 year(s)

DISPOSITION:

Destroy.

RETENTION AND DISPOSITION AUTHORIZATION:

Retention and disposition for this series is proposed and has not yet been approved.

FORMAT MANAGEMENT:

Paper: Retain in Office for 3 years and then transfer to State Records Center. Retain in State Records Center for 22 years and then destroy.

Computer data files: Retain in Office for 25 years and then delete.

Utah State Archives

AGENCY: Department of Public Safety. Office of Professional Standards

SERIES: 16896

TITLE: Category one investigation case files

(continued)

APPRAISAL:

These records have administrative, and/or legal value(s).

RETENTION JUSTIFICATION:

Federal courts, and potentially any prosecuting office relying on the Brady/Giglio principle, which is about establishing whether an individual is a credible witness in court, regularly ask for information regarding the career history of law enforcement officers in order to demonstrate patterns of behavior and cumulative discipline. Law enforcement officers are eligible for retirement after 20 years, so 25 years covers their career plus a few years for transitioning to another position or retirement.

PRIMARY DESIGNATION:

Private Utah Code 63G-2-302(2)(a)(2019)

SECONDARY DESIGNATION(S):

Public. Utah Code 63G-2-301(3)(o)(2018)

Protected. Utah Code 63G-2-305(10)(2019)

3. Explanation

Requested retention

- 25 years, then destroy.
- Federal courts, and potentially any prosecuting office relying on the Brady-Giglio principle (explained below), regularly ask for information regarding the career history of law enforcement officers in order to demonstrate patterns of behavior and cumulative discipline. Law enforcement officers are eligible for retirement after 20 years, so 25 years covers their career plus a few years for transitioning to another position or retirement.
- Record series includes all allegations and investigation results, regardless of whether or not the allegations are substantiated.

Applicable Utah Law & Case Law

Establishes Peace Officer Standards and Training Division's authority to investigate peace officer misconduct and outlines the misconduct for which a peace officer may be investigated

Utah Code 53-6-211 (2013): Suspension or revocation of certification -- Right to a hearing -- Grounds -- Notice to employer -- Reporting -- Judicial appeal.

Relevant case law: Brady-Giglio principle

Brady v. Maryland (1963)

Giglio v. United States (1972)

- Must disclose evidence that could impact the credibility of a prosecution witness.
- Disciplinary action touching on an officer's ethics, integrity or honesty must be disclosed. Criminal convictions for similar criminal offenses, such as fraud or those involving moral turpitude, must also be disclosed.

Retention Schedule history

- Previous retention was 7 years for all investigation case files, regardless of severity of allegations.
- The Department of Public Safety has created a policy regarding personnel complaints and administrative investigations that separates allegations into multiple categories, depending on the seriousness of the allegations. Category I is for the most severe allegations.
- Lieutenant Denney, their records officer, found that their administrative need for the records differed based on the type and severity of allegations. Seven years was not adequate for the two most serious categories; the other two types follow general retention schedules and are not being presented to the RMC for approval. They are:
 - SSRS 29955: Minor policy investigation case files (7 years, destroy)
 - SSRS 29956: Citizen inquiries regarding employee conduct (3 years, destroy)

Program information

- The Department of Public Safety's Office of Professional Standards [receives and investigates complaints](#) regarding all Department employees, including peace officers, dispatchers, and civilian employees.
- The Office of Professional Standards investigates allegations of policy violations that may or may not be criminal in nature. Their purpose is to investigate allegations of misconduct which may impact employment status; their purpose is not to charge individuals with criminal charges but to determine whether or not violations of policy occurred.
- Allegations of wrongdoing or misconduct of a criminal nature are investigated for legal purposes by the law enforcement agency with jurisdiction over the alleged event.

4. Previous version: 1992/2012

Utah State Archives

AGENCY: Department of Public Safety (Utah). Office of Professional Standards

SERIES: 16896

TITLE: Investigation case files

DATES: 1936-

ARRANGEMENT: Numerical by case number

ANNUAL ACCUMULATION: 6.00 cubic feet.

DESCRIPTION:

These records document investigations of employees, civil and criminal, department investigations and any other investigation that might be requested by the Commissioner. The investigations may be motivated by citizen complaints, or department suspicions. These investigations may or may not involve disciplinary action. In the course of these investigations, Internal Affairs determines whether the allegations/criticisms are unfounded, not sustained, or sustained; whether the person should be exonerated, and/or whether a criminal complaint should be filed. The files include personnel complaint forms, badge number when applicable, correspondence, written notes for interviews, photographs, polygraph examination and results, clearing house files, and possible criminal complaints. Personal identifiers may include: age, alcohol or drug addiction, appearance, assets and debts, birthplace, brothers and sisters, checking and savings accounts, civil/criminal court involvement, condition of living quarters, credit rating, current and past addresses, date of birth, dental history, driver's license number, educational level, employer, employment history, ethnic group, expenditures, family history, food purchase and consumption, grade average or class standing, ownership, income, job position information (grade/step, etc.), marital status, medical information, membership in groups, military service, mortgage information, motor vehicle ownership, name, national origin, name of kin, number of children, occupation, occupational preferences, occupational licenses, parent's birth information, personality inventory, physical characteristics, physical disabilities, police records, political affiliations, property ownership, psychiatric information, public housing occupancy, race, references, religious preferences, salary, salary withholdings, security/other investigations, sex, signature, social security number, telephone number, and victim information.

RETENTION:

Retain for 7 year(s)

DISPOSITION:

Destroy.

RETENTION AND DISPOSITION AUTHORIZATION:

Utah State Archives

AGENCY: Department of Public Safety (Utah). Office of Professional Standards

SERIES: 16896

TITLE: Investigation case files

(continued)

Retention and disposition for this series is authorized by Archives general schedule Complaint investigation files, GRS-1969.

AUTHORIZED: 05-01-2018

FORMAT MANAGEMENT:

Paper: Retain in Office for 3 years after the year of initiation and then transfer to State Records Center. Retain in State Records Center for 4 years and then destroy.

APPRAISAL:

These records have administrative, and/or legal value(s).
If an employee is dismissed due to the investigation then the investigation file is transferred to the original department personnel file to be maintained with that Records Series. Presently the Department of Public Safety Policies and Procedures I-19, revised February 20, 1986 reflects only a five year retention on these files. That policy is currently undergoing changes which will reflect a seven year retention on these files.

PRIMARY DESIGNATION:

Protected

5. Records Management Committee copy for signatures

Retention and Classification Report

Agency: Department of Public Safety. Office of Professional Standards

4501 South 2700 West
Salt Lake City, UT 84119
801-965-4533

Records Officer: D. Denney

16896 Category one investigation case files

Destroying records in accordance with this agency Retention Schedule is in compliance with the Archives and Records Service and Government Records Access and Management Act (Utah Code 63-2-101).

The Agency classifies its records under provisions of the Government Records Access and Management Act (Utah Code 63-2-101).
Classifications have not been approved by the State Records Management Committee.

This agency retention schedule was approved by the State Records Management Committee in

_____.

Kendra Yates
Chief Records Officer
Utah Division of Archives & Records Service

Joshua Bullough
Chair
State Records Management Committee

Date: _____

Date: _____

Utah State Archives

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