

Retention Schedule #: 29954

Category two 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

This is a **new** retention schedule.

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

29954 Category two 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

Date

4/15/20

Utah State Archives

AGENCY: Department of Public Safety. Office of Professional Standards

SERIES: 29954

TITLE: Category two investigation case files

DATES: 1936-

ARRANGEMENT: Numerical by case number.

DESCRIPTION:

These records support the agency's function to investigate complaints or allegations of misconduct or improper job performance against any Department of Public Service employee, 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 allegations classified as category two, including policy violations that are not criminal in nature but are serious enough to warrant official discipline.

RETENTION:

Retain for 15 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 12 years and then transfer to State Archives with authority to weed.

Computer data files: Retain in Office for 15 years and then delete.

Utah State Archives

AGENCY: Department of Public Safety. Office of Professional Standards

SERIES: 29954

TITLE: Category two investigation case files

(continued)

APPRAISAL:

These records have administrative 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. For Category II allegations, which center around policy violations but not criminal acts, ten to fifteen years of history is sufficient for courts.

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

- 15 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. For Category II allegations, which center around policy violations but not criminal acts, ten to fifteen years of history is sufficient for courts.
- 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.
- Otherwise, there is no clear line to define when evidence affects an officer's credibility, where this requirement starts and stops. If an officer is the only witness to an offense, or the state's case relies heavily on one officer's testimony, the Supreme Court has indicated the scope of required disclosure could be broader.

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 II is for allegations which, if true, are cause for discipline, but not usually job loss. Unprofessionalism and policy violations that are not criminal in nature but are still considered serious would fall into this category.

- 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. 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

29954 Category two 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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