STATE OF NEW JERSEY

STATE RECORDS COMMITTEE

PO BOX 661, TRENTON, NJ, 08625-0661 609.530.3200

www.treas.state.nj.us

AGENDA
STATE RECORDS COMMITTEE
July 21, 2016
10:00AM

Location: **New Jersey State Records Center Conference Room**
2300 Stuyvesant Avenue
Trenton, NJ 08625-0661
(www.nj.gov/treasury/revenue/rms/directions.shtml**)**

Announcement of Open Public Meeting

I. Review of January 21, 2016 minutes

II. Administrative Actions:

A. Announcement of Approval of Destruction Authorization:
1. Routine Request: #87-297 – 87-411
2. Artemis Request: #523645 – 528472

B. Registered Imaging Systems / Amendments / Annual Reviews:
Report to the State Records Committee: (See Attached)

III. Old Business:

A. Special Request and Authorization for Records Disposal: (See Attached)
Dept. of Human Services, Division of Developmental Disabilities, Green Brook Regional Center – Damaged Records – Presented by James Jenkins

IV. New Business:

A. Records Retention Schedules: (See Attached)

1. **Law and Public Safety** – Presented by John Berry
Division of Consumer Affairs – Securities – S660906-003

2. **State General Schedule** – Presented by Nichole Carthan
Body Worn Cameras (BWC) – G100000-009 Item 2101-0000

3. **County General Schedule** – Presented by Nichole Carthan
Body Worn Cameras (BWC) – C820000-012 Item 0707-0000

4. **Municipal General Schedule** – Presented by Nichole Carthan
Body Worn Cameras (BWC) – M100000-012 Item 0707-0000

B. Special Request and Authorization for Records Disposal: (See Attached)
Mount Olive Police Department – Damaged Records **–** Presented by Vilirie Perry

V. Other Business:

A. Procedures Regarding the Disposal of Hardcopy Records Scanned with Permanent or Archives / Archival Review Retention – Presented by Irwin Nadel

B. Re-Adoption of N.J.A.C. 15:3 with non-substantive streamlining changes

1. Explanation of Current Situation

    - Multiple Versions
    - Considered Re-adoption without change
    - Preference to get some streamlining consistent with Governor's Office direction
    - Will circulate that version and ask for vote in an August Special Meeting.

2. Planned Approach to Substantive Rule Revisions

    - Use non-substantive streamlined version as the baseline
    - Group to go over the rules and create a consensus version that streamlines further (eliminating outdated and unnecessary language), modernizes the rules, and provides clear direction for records custodians
    - Regular meetings, with a goal to get agreement on each section of the rules. Designate a "lead" for each subchapter (Archives or DORES) and they will draft the section and then we will review and meet to discuss changes
    - Anything that can't be resolved by this group will be summarized and presented to management in the Department of State and the Department of the Treasury for a policy decision
    - Once policy is set, the rules will be finalized accordingly
    - Final consensus draft reviewed by interest groups and sent to the SRC for review

3. SRC Members Discussion of Direction for Rule Revisions

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STATE RECORDS COMMITTEE

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MINUTES
STATE RECORDS COMMITTEE
January 21, 2016

Michael J. Tyger, Secretary, called the 421st meeting of the State Records Committee to order at 10:05 a.m. on the above date. He stated that notice of the meeting had been posted in the Secretary of State's Office and published in the state's daily newspapers in conformance with the requirements of the Open Public Meetings Act.

Mr. Tyger stated that there is a quorum with all members present except for the representative from the State Auditor's office, who was unable to attend the meeting.

Mr. Tyger welcomed Stacy Spera from the Division of Local Government Services to the State Records Committee.

ATTENDANCE:

SRC:
State Treasurer, Michael Tyger, designee
Division of Local Government Services, Stacy Spera, designee
Attorney General, Cameryn Hinton, alternate designee
State Archives, Joseph Klett

Staff:
Sharon Allen, Technical Assistant II, Records Management Services
John Berry, Records Analyst I, Records Management Services
Ellen Callahan, Supervising Archivist, NJ State Archives, Department of State
Marcella Campbell, Technical Assistant I, Records Management Services
Nichole Carthan, Records Manager, Records Management Services
Virma Guzman-Reyes, Head Audit Account Clerk, Records Management Services
James Jenkins, Records Analyst III, Records Management Services
Irwin Nadel, Chief of Operations, Records Management Services
Baljinder Pannu, Data Entry Operator, Records Management Services
Vilirie D. Perry, Records Analyst I, Records Management Services
Esther Watkins, Secretarial Assistant II, Records Management Services

Other:
Denise Hollingsworth, Law & Public Safety, Criminal Justice
David Brice, Michele Everly, Gloucester County Clerk's Office
Lauren Wiley, Mercer County Clerk's Office

MINUTES:

APPROVAL OF PREVIOUS SRC MEETING MINUTES:
Upon motion, seconded, the Committee voted to approve the December 17, 2015 minutes four (4) yes, none (0) no.

I. ADMINISTRATIVE ACTIONS:

A. Announcement of Approval of Destruction Authorizations:

1. **Secretary Tyger announced the approval of routine hardcopy request for disposal of public Records:** #87-264 – #87-296
2. **Secretary Tyger announced the approval of routine online Artemis requests for disposal of public records:** #523224 – #523644

B. Registered Imaging Systems / Amendments / Annual Reviews:
Report to the State Records Committee: (See Attached)

II. NEW BUSINESS:

A. Records Retention Schedules (See Attached)
Law and Public Safety – Presented by John Berry
Criminal Justice – S660400 Items 0100-0000 – 0100-0002 - Approved without change

III. OTHER BUSINESS:

Mr. Tyger inquired if there were any updates for the Special Request and Authorization for Records Disposal for the Department of Human Services, Division of Developmental Disabilities.
Ms. Carthan stated that the agency is working to have the information available by the next SRC meeting.

There being no other business, the Committee adjourned at 10:17 a.m.

_____
Michael Tyger
Secretary
State Records Committee

Registered Imaging Systems / Amendments / Annual Reviews July 21, 2016				
Action Type/Analyst	**Registration #**	**Agency**	**Comments**	**Vendor (if Applicable)**
New Registration: Vilirie Perry	16020401-MP	Passaic County Vocational School District	System meets all requirements for registration	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
New Registration: James Jenkins	16020402-NM	Evesham Township Police	System meets all requirements for registration	Dell USA, LP
New Registration: John Berry	16021803-MP	Township of Gloucester Municipal Utilities Authority	System meets all requirements for registration	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
New Registration: John Berry	16031001-NM	Hudson County, Division of Finance	System meets all requirements for registration.	Municipal Software, Inc
New Registration: James Jenkins	16031002-NM	OCSS Division of Family Development Electronic Content Management	System meets all requirements for registration.	Protech Solutions

Registered Imaging Systems / Amendments / Annual Reviews July 21, 2016				
Action Type/Analyst	**Registration #**	**Agency**	**Comments**	**Vendor (if Applicable)**
New Registration: James Jenkins	16032403-MP	Township of Denville	System meets all requirements for registration	ShoreScan Solutions
New Registration: Vilirie Perry	16041401-MP	Lyndhurst School District	System meets all requirements for registration	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
New Registration: Vilirie Perry	16042802-MP	Denville Township Board of Education	System meets all requirements for registration	ShoreScan Solutions
New Registration: Vilirie Perry	16042803-MP	Bethlehem Township School District	System meets all requirements for registration	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
New Registration Vilirie Perry	16051201-MP	Deptford Township School District	System meets all requirements for registration	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
New Registration Vilirie Perry	16051202-MP	Somerset County Vocational & Technical Schools	System meets all requirements for registration	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA

Registered Imaging Systems / Amendments / Annual Reviews July 21, 2016				
Action Type/Analyst	**Registration #**	**Agency**	**Comments**	**Vendor (if Applicable)**
New Registration Vilirie Perry	16062301-MP	Rockaway Township Public Schools	System meets all requirements for registration	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: Marcella Campbell	04021902-MF	Township of Woodbridge Building Department	Added Record Series	N/A
Annual Review & Amendment: Vilirie Perry	04121604-MF	Ocean County Surrogate's Office	Added Record Series	N/A
Annual Review & Amendment: Vilirie Perry	09071601-MF	Township of Middletown	Added Record Series	N/A
Annual Review & Amendment: James Jenkins	091012236-MF	County of Bergen Office of the County Clerk, LRMS	Added Record Series	N/A
Annual Review & Amendment: John Berry	11072105-MF	Township of Jefferson Police Department	Added Record Series	N/A
Annual Review & Amendment: Vilirie Perry	15011502-MF	Borough of Red Bank	Added Record Series	N/A

Registered Imaging Systems / Amendments / Annual Reviews July 21, 2016				
Action Type/Analyst	**Registration #**	**Agency**	**Comments**	**Vendor (if Applicable)**
Annual Review & Amendment: James Jenkins	03051501-MP	Township of Brick Municipal Utilities Authority Accounting	Approved Migration Path	ShoreScan Solutions
Annual Review & Amendment: James Jenkins	06061506-MP	Township of Brick Enterprise	Added Record Series	N/A
Annual Review & Amendment: Marcella Campbell	06110903-MP	Township of Woodbridge	Approved Migration Path	Hyland OnBase
Annual Review & Amendment: Marcella Campbell	07062101-MP	County of Ocean Clerk of the Board	Approved Migration Path	Sunrise Systems
Annual Review & Amendment: Marcella Campbell	08022101-MP	County of Somerset Enterprise	Approved Migration Path & Added Record Series	Hyland OnBase
Annual Review & Amendment: Vilirie Perry	09082007-MP	Township of Readington	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA

Registered Imaging Systems / Amendments / Annual Reviews July 21, 2016				
Action Type/Analyst	**Registration #**	**Agency**	**Comments**	**Vendor (if Applicable)**
Annual Review & Amendment: James Jenkins	09101502-MP	Borough of Atlantic Highlands	Approved Migration Path	ShoreScan Solutions
Annual Review & Amendment: Vilirie Perry	09121706-MP	Hunterdon Central Regional School District	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: Marcella Campbell	10021803-MP	County of Sussex	Approved Migration Path	Hyland Software
Annual Review & Amendment: Vilirie Perry	10041501-MP	South Orange Maplewood School District	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: Vilirie Perry	10081901-MP	Newton Public Schools	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: John Berry	1010206-MP	City of Garfield	Added Record Series & Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA

Registered Imaging Systems / Amendments / Annual Reviews July 21, 2016				
Action Type/Analyst	**Registration #**	**Agency**	**Comments**	**Vendor (if Applicable)**
Annual Review & Amendment: Vilirie Perry	10111003-MP	Carteret School District	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: Vilirie Perry	11072106-MP	City of Millville	Added Record Series & Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: Vilirie Perry	11072107-MP	Millville Board of Education	Added Record Series & Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: Vilirie Perry	11091501-MP	Ewing Public Schools	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: Vilirie Perry	12041902-MP	Atlantic County Vocational Technical School District	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: Vilirie Perry	12041906-MP	Englewood Public School District	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA

Registered Imaging Systems / Amendments / Annual Reviews July 21, 2016				
Action Type/Analyst	**Registration #**	**Agency**	**Comments**	**Vendor (if Applicable)**
Annual Review & Amendment: Vilirie Perry	12062108-MP	South Bergen Jointure Commission	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: Vilirie Perry	12081605-MP	South Plainfield School District	Added Record Series & Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: Vilirie Perry	12081606-MP	Bergenfield Public School District	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: Vilirie Perry	12101807-MP	Brick Township Public School District	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: Vilirie Perry	13032104-MP	Burlington County Special Services School District	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: Vilirie Perry	130710805-MP	Hopewell Valley Regional School District	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA

Registered Imaging Systems / Amendments / Annual Reviews July 21, 2016				
Action Type/Analyst	**Registration #**	**Agency**	**Comments**	**Vendor (if Applicable)**
Annual Review & Amendment: Vilirie Perry	13091906-MP	Linden Public Schools	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: Vilirie Perry	13121201-MP	South Brunswick Township School District	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: Vilirie Perry	14032005-MP	Cumberland Regional High School	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: Vilirie Perry	14032007-MP	Somerset Hills School District	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: Vilirie Perry	14032008-MP	City of Ocean City	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: Vilirie Perry	14051511-MP	Sterling High School District	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA

Registered Imaging Systems / Amendments / Annual Reviews July 21, 2016				
Action Type/Analyst	**Registration #**	**Agency**	**Comments**	**Vendor (if Applicable)**
Annual Review & Amendment: Vilirie Perry	14071703-MP	Monroe Township School District	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: Vilirie Perry	14121804-MP	Township of Willingboro	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: Vilirie Perry	15052101-MP	Franklin Township Public Schools	Approved Migration Path	AccuScan Digital Archival Solutions/ ACCSES New Jersey CNA
Annual Review & Amendment: John Berry	07021505-NM	County of Hudson Enterprise Wide	Added Record Series	N/A
Annual Review & Amendment: Vilirie Perry	08121804-NM	New Jersey Transit Corp Accounts Payable Department	Upgraded Software	N/A
Annual Review & Amendment: Marcella Campbell	09101523-NM	Borough of Tinton Falls	Added Record Series	N/A

Registered Imaging Systems / Amendments / Annual Reviews July 21, 2016				
Action Type/Analyst	**Registration #**	**Agency**	**Comments**	**Vendor (if Applicable)**
Annual Review & Amendment James Jenkins	13121207-NM	Greystone Park Psychiatric Hospital	Added Record Series	N/A
Annual Review & Amendment: James Jenkins	15011501-NM	City of East Orange	Added Records Series	N/A
Annual Review & Amendment: Marcella Campbell	01111401-MF	County of Passaic County Clerk	N/A	N/A
Annual Review: James Jenkins	05072101-MF	County of Gloucester Surrogate's Office	N/A	N/A
Annual Review: James Jenkins	05102001-MF	County of Cape May Surrogate	N/A	N/A
Annual Review: Marcella Campbell	06031602-MF	County of Passaic County Clerk eFiling	N/A	N/A
Annual Review: Vilirie Perry	06110901-MF	City of Newark	N/A	N/A

Registered Imaging Systems / Amendments / Annual Reviews July 21, 2016				
Action Type/Analyst	**Registration #**	**Agency**	**Comments**	**Vendor (if Applicable)**
Annual Review: James Jenkins	06121408-MF	County of Gloucester	N/A	N/A
Annual Review: John Berry	08011703-MF	Township of Jefferson	N/A	N/A
Annual Review: James Jenkins	11051909-MF	County of Gloucester Clerk, LRMS	N/A	N/A
Annual Review: James Jenkins	15071602-MP	Clearview Regional High School District	N/A	N/A
Annual Review: John Berry	00101901-NM	Township of Holmdel	N/A	N/A
Annual Review: James Jenkins	04041501-NM	Department of Labor and Workforce Development/ Division of Temporary Disability Insurance	N/A	N/A

Registered Imaging Systems / Amendments / Annual Reviews July 21, 2016				
Action Type/Analyst	**Registration #**	**Agency**	**Comments**	**Vendor (if Applicable)**
Annual Review: Marcella Campbell	07092001-NM	Township of Winslow	N/A	N/A
Annual Review: James Jenkins	08032002-NM	County of Gloucester Prosecutor's Office	N/A	N/A
Annual Review: John Berry	09021903-NM	Hunterdon County Prosecutor's Office	N/A	N/A
Annual Review: James Jenkins	09091703-NM	City of Clifton Fire Department and Fire Prevention Bureau	N/A	N/A
Annual Review: James Jenkins	09101506-NM	Borough of Fair Haven	N/A	N/A
Annual Review: James Jenkins	10071501-NM	Ocean County Utilities Authority	N/A	N/A

Registered Imaging Systems / Amendments / Annual Reviews July 21, 2016				
Action Type/Analyst	**Registration #**	**Agency**	**Comments**	**Vendor (if Applicable)**
Annual Review: Vilirie Perry	11051906-NM	Ocean County College Financial Aid, Admissions & Records, Accounting	N/A	N/A
Annual Review: Marcella Campbell	12021604-NM	County of Passaic	N/A	N/A
Annual Review: John Berry	13032108-NM	Borough of Franklin Lakes	N/A	N/A
Annual Review: James Jenkins	14011602-NM	Hunterdon County CWA	N/A	N/A
Annual Review: Vilirie Perry	14032010-NM	Middlesex County Board of Social Services	N/A	N/A
Annual Review: Vilirie Perry	14051503-NM	Department of Human Service Ocean County Board of Social Services	N/A	N/A

Registered Imaging Systems / Amendments / Annual Reviews July 21, 2016				
Action Type/Analyst	**Registration #**	**Agency**	**Comments**	**Vendor (if Applicable)**
Annual Review: Marcella Campbell	15052104-NM	Monmouth County Sheriff's Office	N/A	N/A

State of New Jersey

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

DEPARTMENT OF THE TREASURY
DIVISION OF REVENUE AND
ENTERPRISE SERVICES
RECORDS MANAGEMENT SERVICES
P.O. BOX 661
TRENTON, NJ 08625-0661

FORD M. SCUDDER
Acting State Treasurer

Special Request and Authorization for Records Disposal

TO: State Records Committee:

FROM: James C. Jenkins, Records Analyst 3

DATE: Thursday, July 21, 2016

SUBJECT: Green Brook Regional Center Special Request and Authorization for Records Disposal Update from December 17, 2015 SRC Meeting

Agency Disaster Narrative:

Please find included, emails from Robert Harbold, Department of Human Services, Division of Developmental Disabilities regarding a Special Request and Authorization for Records Disposal of damaged records that was presented to the State Records Committee (SRC) on Thursday, December 17, 2015. Approximately, 1,100 boxes of records continue to be stored in a metal trailer at The Green Brook Regional Center, 275 Greenbrook Road, Green Brook, New Jersey 08812. During the December 17, 2016 SRC meeting the committee suggested contacting a restoration company that can inventory the records to identify the client records in the trailer, and any other records that may also be stored inside.

Mr. Harbold has contacted several vendors, however, many are reluctant to provide additional estimates or simply do not return his calls. Mr. Harbold was able to get names of individuals, off the outside of 18 boxes from the trailer at Greenbrook. The following is the breakdown of their whereabouts:

Deceased	– 5
Closed	– 2
Active	– 9
Not in system	– 1
Undetermined	– 1

- Closed cases and deceased individuals were closed/deceased for more than 10 years and meet the full period of the retention period

- Active cases are individuals who are currently placed in community settings and receiving services form DDD and have case records going forward from 1999. Additionally, their existing files would also have a percentage of old documents that we always keep with the active records (e.g. intake information, disability documentation, Community Care Waiver Eligibility).

Based on this sample, the trailer contains a mixture of active and closed cases, but as previously mentioned the active cases have records from 1999 forward, as well as some historical documents.

Mr. Harbold will be present to answer any questions the State Records Committee may have.

Carthan, Nichole

From: Robert.Harbold@dhs.state.nj.us
Sent: Wednesday, February 03, 2016 10:30 AM
To: Carthan, Nichole
Cc: James Jenkins
Subject: Greenbrook trailer records

Good Morning,

Just as an FYI, I have had trouble getting an estimate on the files in the trailer at Greenbrook Regional Center. I tried to get estimates for moving the files from one trailer to another so that I could try and get all the names off all the boxes. I then planned to look up the names in our system so I could tell if the service recipient was deceased or still receiving services. But, I have already had estimates to clean these records and the records at New Lisbon DC so I think the companies are frustrated that they have given 2 estimates and aren't getting any results. One company won't call me back.

So.. I have one more company to try. In the meantime, when the snow melts, so probably next week, I plan to travel to Greenbrook, put on a mask and gloves, and removes the first row of boxes and get the names off the first and second row of boxes. Then I should have about 20 names I can look up in our system to see if the service recipients are deceased. If the majority are deceased I want to go back to the committee and advise them of that fact and see if they will let me destroy the records. One way or the other I'd like to get a decision.

Bob

Robert Harbold
Division of Developmental Disabilities
Office - (609) 292-2024
Fax – (609) 292-2629

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From: James Jenkins
Sent: Wednesday, February 24, 2016 9:03 AM
To: Campbell, Marcella
Subject: FW: Records in trailer at Greenbrook

From: Robert.Harbold@dhs.state.nj.us [mailto:Robert.Harbold@dhs.state.nj.us]
Sent: Thursday, February 11, 2016 9:35 AM
To: Carthan, Nichole
Cc: James Jenkins
Subject: Records in trailer at Greenbrook

Hi Nichole and James,

I opened the trailer at Greenbrook today and was able to get the names of individuals off the outside of 18 boxes (without getting attached by mold). The following is the breakdown of their whereabouts:

Deceased - 5
Closed - 2
Active - 9
Not in system - 1
Undetermined - 1

All of the cases closed and the individuals deceased, all were closed/deceased for more than 10 years so they would meet the full period of the retention schedule.

All the active cases are individuals who are currently placed in community settings and receiving services from DDD. They have case records going forward from 1999. Additionally, their existing files would also have a percentage of old documents that we would always keep with the active record (e.g. intake information, disability documentation, Community Care Waiver Eligibility).

One of the names, Jose Martinez, had 3 different individuals listed with the same name so I couldn't be sure of his status without reviewing the records.

Based on this sample, I don't think it makes sense to get an estimate to move the boxes from one trailer to another so I can get the rest of the names. It looks like the trailer contains a mixture of active and closed cases. But as I mentioned, the active cases have records from 1999 forward as well as some historical documents.

Let me know what you want to do from here. Bob

This E-mail, including any attachments, may be intended solely for the personal and confidential use of the sender and recipient(s) named above. This message may include advisory, consultative and/or deliberative material and, as such, would be privileged and confidential and not a public document. Any Information in this e-mail identifying a client of the Department of Human Services or the Department of Children and Families is confidential. If you have received this e-mail in error, you must not review, transmit, convert to hard copy, copy, use or disseminate this e-mail or any attachments to it and you must delete this message. You are requested to notify the sender by return e-mail.

Records Retention and Disposition Schedule Amendment

DEPARTMENT:	Law and Public Safety	**AGENCY # S660906**			
DIVISION:	Consumer Affairs	**SCHEDULE # 003**			
BUREAU:	Securities	**PAGE #**	1	**OF**	6

Agency Level Amendments

Former Agency Name (Department/Division/Bureau)	Law and Public Safety – Consumer Affairs - Securities
Former Agency Number	002

Records Series Level Amendments

Record Series #	Record Series Name	Type of Change	Former Designation (if applicable)	New Designation (if applicable)
0001-0000	Administrative Action Files	Description	Contains investigation reports, correspondence, transcripts, orders, and other materials pertaining to administrative, criminal, appellate and civil proceedings.	Contains investigation reports, correspondence, transcripts, orders, and other materials pertaining to administrative, criminal, appellate and civil proceedings. N.J.S.A. 49:3-68 and N.J.A.C. 47A-14.1 – 14.16.
0002-0000	Issuer Agent Application Files	Description; Retention	Contains U-4 applications, renewals, amendments and correspondence relating to issuer agents.; 25 years after failure to renew/ Destroy	Contains U-4 applications, renewals, amendments and correspondence relating to issuer agents. N.J.S.A. 49:3-56 and N.J.A.C. 47A-3.1 – 3.4.; 25 years after last Bureau registration/Destroy
0003-0000	Broker-Dealer and Investment Advisor Application Files	Superseded		**Explanation:** This record series header is now divided between new record series 0013-0000 (Broker-Dealer And Broker-Dealer Application Files) & 0014-0000 (Investment Adviser And Investment Adviser Representative Application Files)

Record Series #	Record Series Name	Type of Change	Former Designation (if applicable)	New Designation (if applicable)
0003-0001	Broker-Dealer Application Files	Superseded, Retention	50 years after failure to renew/Destroy	RS 0013-0001 Broker-Dealer Application Files 20 years after last bureau registration / Destroy
0003-0002	Investment Advisor Application Files	Superseded, Retention	50 years after failure to renew/Destroy	RS 0014-0001 Investment Adviser Application Files 20 years after last bureau registration / Destroy
0004-0000	Exemption Files	Description; Retention	Contains confidential requests for exemption under N.J.S.A 49:3-50. Includes "no fee" "fee", Mutual Fund and Unit Investment Trusts (UIT) exemptions.; 25 years/Destroy	Contains offerings filed under several exemption and notice filing provision including but not limited to N.J.S.A 49:3-50(b)(12) and N.J.S.A 49:3-60.1(b) 55 years from filing date/Destroy
0005-0000	Exemption Index Card File	Obsolete	Retention Period: Permanent/Permanent	**Explanation:** Record was destroyed 15 years ago. All of the information that was contained in those card files is currently contained on the Central Registration Depository (CRD), which is jointly owned and administered by state securities regulators, Financial Industry Regulatory Authority (FINRA) and the U.S. Securities and Exchange Commission (SEC).

Record Series #	Record Series Name	Type of Change	Former Designation (if applicable)	New Designation (if applicable)
0006-0000	Investigation Files	Description; Retention	Contains investigation reports, complaints, responses, transcripts, orders, depositions, and other materials related to possible violations. 70 years after final disposition / Destroy	Contains: investigation reports, examination reports, complaints, responses, transcripts, orders, depositions, document productions, subpoenas, and other materials related to possible violations. N.J.S.A. 49:3-68 and N.J.A.C. 47A4.1-4.4 and 47A-14.1 – 14.16.; 42 years after final disposition and/or completion of all related litigation, whichever is later / Destroy
0007-0000	Registration Register Card File	Obsolete	Retention Period: Permanent/Permanent	**Explanation:** Record was destroyed 15 years ago. All of the information that was contained in those card files is currently contained on the Central Registration Depository (CRD), which is jointly owned and administered by state securities regulators, Financial Industry Regulatory Authority (FINRA) and the U.S. Securities and Exchange Commission (SEC).

Record Series #	Record Series Name	Type of Change	Former Designation (if applicable)	New Designation (if applicable)
0008-0000	Renewal Index Card File	Obsolete	Retention Period: Permanent/Permanent	**Explanation:** Record was destroyed 15 years ago. All of the information that was contained in those card files is currently contained on the Central Registration Depository (CRD), which is jointly owned and administered by state securities regulators, Financial Industry Regulatory Authority (FINRA) and the U.S. Securities and Exchange Commission (SEC).
0009-0000	Securities Registration File	Description; Retention	Contains registrations, prospectuses, consent and amendments for intrastate and other offerings. Permanent/Permanent	Contains registrations, prospectuses, consent and amendments for intrastate and other offerings. N.J.S.A. 49:3-61 - 63 and N.J.A.C. 47A-10.1 – 10.4.; 55 years from date of effectiveness, withdrawal, or abandonment / Destroy
0010-0000	Investor Inquiries and Complaints Files	Description; Retention	Contains investor inquiries and complaints, correspondence, memoranda, and responses to inquiries and complaints. 15 years/Destroy	Contains investor inquiries and complaints, correspondence, memoranda, and responses to inquiries and complaints. N.J.S.A. 49:3-68 and N.J.A.C. 47A-14.1 – 14.16.; 10 years / Destroy

Record Series #	Record Series Name	Type of Change	Former Designation (if applicable)	New Designation (if applicable)
0011-0000	No-Action and Interpretation Files	Title; Description; Retention	Contains applications and correspondence pertaining to requests for exemptions, interpretations, no-actions, orders and waivers. Permanent / Permanent	Order, No-Action and Interpretation Files Contains official copies of Bureau orders, court pleadings, applications and correspondence pertaining to requests for exemptions, interpretations, no-actions, orders and waivers, as well as applications and correspondence pertaining to requests for exemptions, interpretations, no-actions, orders and waivers. N.J.S.A. 49:3-66, N.J.S.A. 49:3-67 and CCH Blue Sky Reporter Paragraph 40,632. Life of Bureau or any successor agency / Archival Review
0012-0000	Registered Representatives Files	Superseded, Description, Retention	Contains information and correspondence relating to broker-dealer agents who have disciplinary inquiries or actions. Permanent /Permanent	This record series has been divided into two new record series with identical description and retention: **RS 0013-0002** Broker-Dealer Agent Application Files Application Files **RS 0014-0002** Investment Adviser Representative Application Files Description: Contains registration application, background summary information, and correspondence relating to disciplinary inquiries or actions. N.J.S.A. 49:3-56 and N.J.A.C. 13:47A-3A.1-3A.2. Retention: 40 years after no longer registered in any jurisdiction

Record Series #	Record Series Name	Type of Change	Former Designation (if applicable)	New Designation (if applicable)
0013-0000	Broker-Dealer And Broker-Dealer Application Files	New		
0013-0001	Broker-Dealer Application Files	New		
0013-0002	Broker-Dealer Agent Application Files	New		
0014-0000	Investment Adviser And Investment Adviser Representative Application Files	New		
0014-0001	Investment Adviser Application Files	New		
0014-0002	Investment Adviser Representative Application Files	New		
0015-0000	Covered Security Files	New		

STATE OF NEW JERSEY

Law and Public Safety-Consumer Affairs-Securities

S660906-003

Prepared by:
Department of the Treasury, Division of Revenue and Enterprise Services, Records Management Services
2300 Stuyvesant Avenue, PO Box 307 Trenton, NJ 08625-0307
609.530.3200

Records Retention and Disposition Schedule	Agency: S660906	Schedule: 003	Page #:1 of 4

Department:	Law and Public Safety-Consumer Affairs-Securities	**Agency Representative:**	Laura H. Posner
Division:		**Title:**	Bureau Chief
Bureau:		**Phone #:**	

SCHEDULE APPROVAL: Unless in litigation, the records covered by this schedule, upon expiration of their retention periods, will be deemed to have no continuing value to the State of New Jersey and will be disposed of as indicated in accordance with the law and regulations of the State Records Committee. This schedule will become effective on the date approved by the State Records Committee.

Agency Representative Signature:	**Date:**	**Secretary, State Records Committee Signature:**	**Date:**

Record Series #	**Record Title and Description**	Audit	Alternate Media	Archival Review	Vital Record	Confidential	**Retention Policy** Total Retention Period	**Retention Policy** Minimum Period in Agency	**Disposition**	**Citation**
0001-0000	Administrative Action Files --- Contains investigation reports, correspondence, transcripts, orders, and other materials pertaining to administrative, criminal, appellate and civil proceedings. N.J.S.A. 49:3-68 and N.J.A.C. 13:47A-14.1 – 14.16.					C	40 years after final disposition	10 years after final disposition	Destroy	
0002-0000	Issuer Agent Application Files --- Contains U-4 applications, renewals, amendments and correspondence relating to issuer agents. N.J.S.A. 49:3-56 and N.J.A.C. 13:47A-3.1 – 3.4.					C	25 years after last Bureau registration	5 years after last Bureau registration	Destroy	
0004-0000	Exemption Files --- Contains offerings filed under several exemption and notice filing provision including but not limited to N.J.S.A. 49:3-50(b)(12) and N.J.S.A. 49:3-60.1(b).					P	55 years from filing date	5 years from filing date	Destroy	

* P - Public, C - Confidential

Record Series #	Record Title and Description	Audit	Alternate Media	Archival Review	Vital Record	Confidential	Retention Policy: Total Retention Period	Retention Policy: Minimum Period in Agency	Disposition	Citation
0006-0000	Investigation Files --- Contains: investigation reports, examination reports, complaints, responses, transcripts, orders, depositions, document productions, subpoenas, and other materials related to possible violations. N.J.S.A. 49:3-68 and N.J.A.C. 13:47A-4.1 - 4.4 and 13:47A-14.1 – 14.16.					C	42 years after final disposition and/or completion of all related litigation, whichever is later	2 years after final disposition and/or completion of all related litigation, whichever is later	Destroy	
0009-0000	Securities Registration File --- Contains registrations, prospectuses, consent and amendments for intrastate and other offerings. N.J.S.A. 49:3-61 - 63 and N.J.A.C. 13:47A-10.1 – 10.4.					C	55 years from date of effectiveness, withdrawal, or abandonment	5 years from date of effectiveness, withdrawal, or abandonment	Destroy	
0010-0000	Investor Inquiries And Complaints Files --- Contains investor inquiries and complaints, correspondence, memoranda, and responses to inquiries and complaints. N.J.S.A. 49:3-68 and N.J.A.C. 13:47A-14.1 – 14.16.					C	10 Years	5 Years	Destroy	
0011-0000	Order, No-Action And Interpretation Files --- Contains official copies of Bureau orders, court pleadings, applications and correspondence pertaining to requests for exemptions, interpretations, no-actions, orders and waivers, as well as applications and correspondence pertaining to requests for exemptions, interpretations, no-actions, orders and waivers. N.J.S.A. 49:3-66, N.J.S.A. 49:3-67 and CCH Blue Sky Reporter Paragraph 40,632.			X		P	Life of Bureau or any successor agency		Archival Review	
0013-0000	Broker-Dealer And Broker-Dealer Agent Application Files --- N.J.S.A. 49:3-56 and N.J.A.C. 13:47A-1.1 – 1.13 and 13:47A-3.1 – 3.4.									

* P - Public, C - Confidential

Record Series #	Record Title and Description	Audit	Alternate Media	Archival Review	Vital Record	Confidential	Retention Policy: Total Retention Period	Retention Policy: Minimum Period in Agency	Disposition	Citation
0013-0001	Broker-Dealer Application Files --- Contains registration application, background summary information, and other related information. N.J.S.A. 49:3-56 and N.J.A.C. 13:47A-1.1 – 1.13.					C	20 years after last bureau registration	5 years after last bureau registration	Destroy	
0013-0002	Broker-Dealer Agent Application Files --- Contains registration application, background summary information, and correspondence relating to disciplinary inquiries or actions. N.J.S.A. 49:3-56 and N.J.A.C. 13:47A-3.1 – 3.4.					C	40 years after no longer registered in any jurisdiction	10 years after no longer registered in any jurisdiction	Destroy	
0014-0000	Investment Adviser And Investment Adviser Representative Application Files --- N.J.S.A. 49:3-56 and N.J.A.C. 13:47A-2.1 – 2.11 and 13:47A-3A.1 – 3A.2.									
0014-0001	Investment Adviser Application Files --- Contains registration applications, background summary information, and other related information. N.J.S.A. 49:3-56 and N.J.A.C. 13:47A-2.1 – 2.11.					C	20 years after last bureau registration	5 years after last bureau registration	Destroy	
0014-0002	Investment Adviser Representative Application Files --- Contains registration application, background summary information, and correspondence relating to disciplinary inquiries or actions. N.J.S.A. 49:3-56 and N.J.A.C. 13:47A-3A.1 – 3A.2.					C	40 years after no longer registered in any jurisdiction	10 years after no longer registered in any jurisdiction	Destroy	

* P - Public, C - Confidential

Record Series #	Record Title and Description	Audit	Alternate Media	Archival Review	Vital Record	Confidential	Retention Policy		Disposition	Citation
							Total Retention Period	Minimum Period in Agency		
0015-0000	Covered Security Files --- Contains mutual fund and Unit Investment Trust (UIT) notice filings. N.J.S.A. 49:3-60.1(a) and N.J.S.A. 13:47A-7.9.					P	15 years from termination or withdrawal of filing	5 years from termination or withdrawal of filing	Destroy	

* P - Public, C - Confidential

RECORDS RETENTION AND DISPOSITION SCHEDULE AMENDMENT			
DEPARTMENT State Agency General Records Retention Schedule	**AGENCY # G100000**		
DIVISION:	**SCHEDULE # 009**		
BUREAU:	**PAGE #** 1	**OF**	1

AGENCY AMENDMENTS

FORMER AGENCY NAME (DEPARTMENT/DIVISION/BUREAU)	State Agency General Records Retention Schedule
FORMER AGENCY NUMBER	G100000
FORMER SCHEDULE #	008

RECORDS SERIES AMENDMENTS

RECORD SERIES #	RECORD SERIES NAME	TYPE OF CHANGE	FORMER DESIGNATION (IF APPLICABLE)	NEW DESIGNATION (IF APPLICABLE)
2101-0000	Body Worn Cameras (BWC)	New		

RECORDS RETENTION AND DISPOSITION SCHEDULE	AGENCY # G100000	SCHEDULE # 009	PAGE # 1 OF 69
DEPARTMENT: State General Records Retention Schedule	AGENCY REPRESENTATIVE: Irwin Nadel		
DIVISION:	TITLE: Chief of Operations		
BUREAU:	PHONE# 609.292.8650		

SCHEDULE APPROVAL: Unless in litigation, the records covered by this schedule, upon expiration of their retention periods, will be deemed to have no continuing value to the State of New Jersey and will be disposed of as indicated in accordance with the law and regulations of the State Records Committee. This schedule will become effective on the date approved by the State Records Committee.

AGENCY REPRESENTATIVE SIGNATURE	DATE:	SECRETARY, STATE RECORDS COMMITTEE SIGNATURE	DATE:

Acknowledgement

Please review the attached Records Retention Schedule, making any additions, deletions or changes as necessary. Once the schedule has met your satisfaction, please sign this page as the agency representative. With this signature, you acknowledge that you have reviewed and approved this schedule. Please be advised that changes may subsequently be suggested/made to this schedule by a panel of Records Analysts at the State Records Center. If revisions are suggested/made, you will be notified of such. The schedule will then be presented to the State Records Committee for final approval.

Management of Electronic Records

This records retention schedule includes records series which are maintained in an electronic format. In the normal course of business, the agency will take the necessary actions to ensure: hardware and software maintenance, backup procedures, security measures, and compliance with the rules and regulations pertaining to the maintenance of public records. Any reference made herein to the process of data erasure means the process of data degaussing.

Record Series #	Record Title and Description	Audit	Alternate Media	Archival Review	Vital Record	Confidential	Retention Policy: Total Retention Period	Retention Policy: Minimum Period in Agency	Disposition	Citation
2101-0000	Body Worn Cameras (BWC) --- Device worn by a law enforcement officer that makes an electronic audio/video recording of activities that take place during any law enforcement action. This does not include mobile video recording devices (MVR), any form of electronic recording device worn by a law enforcement officer while acting in an undercover capacity, or electronic recording devices when used to comply with the requirement of Rule 3:17 (electronic recording station house custodial interrogations). (N.J.S.A. 52:17B-98; Attorney General Law Enforcement Directive No. 2015-1) Exceptions: A. Recording pertains to a criminal investigation or otherwise records information that may be subject to discovery in a prosecution. Recording shall be treated as evidence and held for the applicable retention. B. Recording of an arrest that did not result in an ongoing prosecution, or records use of police force. Recording shall be kept until the expiration of the statute of limitations for filing a civil complaint. C. Recording of an incident that is the subject of an internal affairs complaint. Recording shall be kept pending final resolution of the internal affairs investigation and any administrative action.					P	90 Days unless one of the exceptions are met		Destroy	

* P - Public, C - Confidential

RECORDS RETENTION AND DISPOSITION SCHEDULE AMENDMENT			
DEPARTMENT County Agency General Records Retention Schedule	**AGENCY # C820000**		
DIVISION:	**SCHEDULE # 012**		
BUREAU:	**PAGE #** 1	**OF**	1

AGENCY AMENDMENTS

FORMER AGENCY NAME (DEPARTMENT/DIVISION/BUREAU)	County Agency General Records Retention Schedule
FORMER AGENCY NUMBER	C820000
FORMER SCHEDULE #	011

RECORDS SERIES AMENDMENTS

RECORD SERIES #	RECORD SERIES NAME	TYPE OF CHANGE	FORMER DESIGNATION (IF APPLICABLE)	NEW DESIGNATION (IF APPLICABLE)
0707-0000	Body Worn Cameras (BWC)	New		

RECORDS RETENTION AND DISPOSITION SCHEDULE	AGENCY #	SCHEDULE #	PAGE #
	C820000	012	1 OF 36

DEPARTMENT:	County Agency General Records Retention Schedule	AGENCY REPRESENTATIVE:	Stacy Spera
DIVISION:		TITLE:	Confidential Assistant, Local Gov't Services, DCA
BUREAU:		PHONE #:	609-984-6696

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AGENCY REPRESENTATIVE SIGNATURE	DATE:	SECRETARY, STATE RECORDS COMMITTEE SIGNATURE	DATE:

RECORDS SERIES #	RECORD TITLE & DESCRIPTION	RETAIN IN		DISPOSITION
		AGENCY	RECORDS CENTER	
	Acknowledgement Please review the attached Records Retention Schedule, making any additions, deletions or changes as necessary. Once the schedule has met your satisfaction, please sign this page as the agency representative. With this signature, you acknowledge that you have reviewed and approved this schedule. Please be advised that changes may subsequently be suggested/made to this schedule by a panel of Records Analysts at the State Records Center. If revisions are suggested/made, you will be notified of such. The schedule will then be presented to the State Records Committee for final approval. **Management of Electronic Records** This records retention schedule includes records series which are maintained in an electronic format. In the normal course of business, the agency will take the necessary actions to ensure: hardware and software maintenance, backup procedures, security measures, and compliance with the rules and regulations pertaining to the maintenance of public records. Any reference made herein to the process of data erasure means the process of data degaussing.			

Record Series #	Record Title and Description	Audit	Alternate Media	Archival Review	Vital Record	Confidential	Retention Policy: Total Retention Period	Retention Policy: Minimum Period in Agency	Disposition	Citation
0707-0000	Body Worn Cameras (BWC) --- Device worn by a law enforcement officer that makes an electronic audio/video recording of activities that take place during any law enforcement action. This does not include mobile video recording devices (MVR), any form of electronic recording device worn by a law enforcement officer while acting in an undercover capacity, or electronic recording devices when used to comply with the requirement of Rule 3:17 (electronic recording station house custodial interrogations). (N.J.S.A. 52:17B-98; Attorney General Law Enforcement Directive No. 2015-1) Exceptions: A. Recording pertains to a criminal investigation or otherwise records information that may be subject to discovery in a prosecution. Recording shall be treated as evidence and held for the applicable retention. B. Recording of an arrest that did not result in an ongoing prosecution, or records use of police force. Recording shall be kept until the expiration of the statute of limitations for filing a civil complaint. C. Recording of an incident that is the subject of an internal affairs complaint. Recording shall be kept pending final resolution of the internal affairs investigation and any administrative action.					P	90 Days unless one of the exceptions are met		Destroy	

* P - Public, C - Confidential

RECORDS RETENTION AND DISPOSITION SCHEDULE AMENDMENT			
DEPARTMENT Municipal Agency General Records Retention Schedule	**AGENCY # M100000**		
DIVISION:	**SCHEDULE # 012**		
BUREAU:	**PAGE #** 1	**OF**	1

AGENCY AMENDMENTS

FORMER AGENCY NAME (DEPARTMENT/DIVISION/BUREAU)	Municipal Agency General Records Retention Schedule
FORMER AGENCY NUMBER	M100000
FORMER SCHEDULE #	011

RECORDS SERIES AMENDMENTS

RECORD SERIES #	RECORD SERIES NAME	TYPE OF CHANGE	FORMER DESIGNATION (IF APPLICABLE)	NEW DESIGNATION (IF APPLICABLE)
0707-0000	Body Worn Cameras (BWC)	New		

RECORDS RETENTION AND DISPOSITION SCHEDULE	AGENCY # M100000	SCHEDULE # 012	PAGE # 1 OF 36

DEPARTMENT:	Municipal Agency General Records Retention Schedule	AGENCY REPRESENTATIVE:	Stacy Spera
DIVISION:		TITLE:	Confidential Assistant, Local Gov't Services, DCA
BUREAU:		PHONE #:	609-984-6696

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AGENCY REPRESENTATIVE SIGNATURE	DATE:	SECRETARY, STATE RECORDS COMMITTEE SIGNATURE	DATE:

RECORDS SERIES #	RECORD TITLE & DESCRIPTION	RETAIN IN		DISPOSITION
		AGENCY	RECORDS CENTER	
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Record Series #	Record Title and Description	Audit	Alternate Media	Archival Review	Vital Record	Confidential	Retention Policy: Total Retention Period	Retention Policy: Minimum Period in Agency	Disposition	Citation
0707-0000	Body Worn Cameras (BWC) --- Device worn by a law enforcement officer that makes an electronic audio/video recording of activities that take place during any law enforcement action. This does not include mobile video recording devices (MVR), any form of electronic recording device worn by a law enforcement officer while acting in an undercover capacity, or electronic recording devices when used to comply with the requirement of Rule 3:17 (electronic recording station house custodial interrogations). (N.J.S.A. 52:17B-98; Attorney General Law Enforcement Directive No. 2015-1) Exceptions: A. Recording pertains to a criminal investigation or otherwise records information that may be subject to discovery in a prosecution. Recording shall be treated as evidence and held for the applicable retention. B. Recording of an arrest that did not result in an ongoing prosecution, or records use of police force. Recording shall be kept until the expiration of the statute of limitations for filing a civil complaint. C. Recording of an incident that is the subject of an internal affairs complaint. Recording shall be kept pending final resolution of the internal affairs investigation and any administrative action.					P	90 Days unless one of the exceptions are met		Destroy	

* P - Public, C - Confidential

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lieutenant Governor

State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
PO BOX 080
TRENTON, NJ 08625-0080

JOHN J. HOFFMAN
Acting Attorney General

ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2015-1

TO: Director, Division of Criminal Justice
Superintendent, New Jersey State Police
All County Prosecutors
All County Sheriffs
All Chief Law Enforcement Executives

FROM: John J. Hoffman, Acting Attorney General

DATE: July 28, 2015

SUBJECT: Law Enforcement Directive Regarding Police Body Worn Cameras (BWCs) and Stored BWC Recordings

In recent months, law enforcement agencies have begun to equip their officers with body worn cameras ("BWCs"). A small number of police departments in New Jersey already deploy BWCs, while others plan to do so and currently are balancing the costs and benefits of these devices. New grant programs will incentivize departments to acquire BWCs by helping to defray costs.

In light of the proliferation of BWCs across the State, it is appropriate for the Attorney General, as the State's chief law enforcement officer, to provide guidance to police departments on how to make the best possible use of electronic recording technology. See N.J.S.A. 52:17B-98 (Attorney General is responsible for general oversight of law enforcement, and for ensuring the uniform and efficient enforcement of the criminal laws and the administration of criminal justice). It is decidedly in the public interest to establish foundational statewide standards with respect to certain critical policy issues, such as how an agency explains its BWC policy to the general public, when officers are required to activate their BWCs, when officers are permitted to turn off the recording device during an ongoing police-civilian encounter, and when and for what purposes law enforcement agencies and officers are authorized to access, view, copy, or disseminate stored BWC recordings. Although the statewide standards will establish basic requirements that all police departments must satisfy, these standards also should permit agencies to account for local community needs and interests, and should encourage agencies to develop and share best practices as they gain experience in using these devices.

Accordingly, I, John J. Hoffman, Acting Attorney General of the State of New Jersey,

pursuant to the authority granted to me by the Constitution of the State of New Jersey and the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 to -117, hereby DIRECT that all law enforcement agencies and officers shall implement and comply with the following procedures, standards, and practices concerning the use of body worn cameras and recordings.

1. GOVERNING PRINCIPLES

1.1 Establishing Uniform Statewide Standards While Permitting Departmental Policies to Address Local Concerns.

The policies and standards established in this Directive are designed to help police departments achieve an optimal balance between potentially competing interests. For example, it is necessary to balance the need to promote police accountability and transparency on the one hand, against the need to respect the privacy interests of persons whose images and home interiors will be captured in a BWC recording on the other. So too, it is necessary to balance the benefits achieved by electronically recording evidence that might help to solve a crime and successfully prosecute an offender against the costs incurred if a BWC were to chill a victim or witness from providing a camera-equipped officer with information necessary to solve a crime and convict the offender.

This Directive does not mandate the acquisition or deployment of BWCs. Rather, the decision to acquire these devices, and the decision as to when and in what circumstances officers will be equipped with them, is left to each law enforcement agency. If a department decides to equip an officer with a BWC, this Directive provides guidance on how the device is to be used, when it will be activated, when it might be de-activated in the course of an unfolding police-civilian encounter, and when a BWC recording may be accessed, viewed, copied, disseminated, or otherwise used. In providing such guidance, this Directive establishes certain foundational requirements that all police departments must satisfy. Law enforcement agencies nonetheless are expressly authorized to impose additional requirements beyond – but not inconsistent with – those established in this Directive. In this way, police agencies are afforded an opportunity to tailor their BWC policies and procedures to address local concerns and needs.

Although police executives are afforded some flexibility in developing departmental policies and practices that address local needs and community concerns, this Directive makes clear that all policies must limit the discretion of individual officers in the field. The decision to activate a BWC must be based on objective criteria (e.g., the initiation of a specified type of police action, such as a consensual field inquiry, or the start of an officer's duty shift). Furthermore, in any circumstance where an officer is afforded discretion in deciding whether to de-activate a BWC, the reasons for exercising that discretion must be documented to permit supervisory review.

1.2 Recognizing the Multitude of Reasons for Deploying BWCs.

It is widely recognized that BWCs can play an important role in addressing public concerns about police use of force. A BWC recording of a police-involved shooting or other use-of-force event provides objective evidence of what occurred. The practical utility of BWCs, however, lies not only in their ability to record objectively the circumstances of a police-civilian confrontation, but also in their capacity to discourage both officers and civilians from engaging in inappropriate conduct. Thus, for example, a BWC operating during a police-civilian encounter can deter the officer from using force inappropriately, while at the same time deter a civilian from engaging in provocative conduct that might prompt the officer to use force. These devices also can serve to discourage both law enforcement and civilian witnesses from providing false information about the circumstances of the encounter; a BWC recording not only can vindicate an officer who is falsely accused of misconduct, and do so very quickly, but also will discourage a person from making false allegations against the officer in the first place.

The foregoing benefits provide ample reason for police departments to consider deploying BWCs. The practical utility of these recording devices, however, is not limited to those rare occasions when police employ force, or are accused by civilians of misconduct. BWC recordings will be used far more routinely to document visual and aural evidence learned in the course of conducting police investigations. Not only will BWC recordings preserve accurate visual depictions of physical evidence, such as weapons and illicit drugs and paraphernalia, but also will document where and how physical evidence was found, thereby helping to establish the facts that must be presented in Fourth Amendment suppression hearings. BWCs also will record the physical appearance of suspects and crime victims, preserving evidence of any apparent injuries. The audio portion of BWC recordings, meanwhile, will document witness and suspect statements, preserving not only the substantive content of those statements, but also showing whether officers had complied with Miranda and other legal requirements.

Although BWCs record events accurately and objectively, they do not replace the need for complete and accurate police reports and testimony. The fact that a BWC is not activated to record an encounter or event does not, of course, preclude an officer from testifying as to the circumstances of the encounter or event, or affect the admissibility of evidence. Nor does it suggest that the officer's written report or testimony is inaccurate or incomplete. However, a BWC recording can supplement and corroborate the accuracy of written reports and testimony, which is one of the significant benefits of deploying these devices.

1.3 Practical and Policy-Related Differences Between BWCs and Vehicle-Mounted Video Cameras.

Many police departments have been using vehicle-mounted dashboard cameras ("dash cams") for years. Those departments already have well-established and reliable procedures in place for downloading electronic video/audio data securely, for preserving recordings, and for making

them available for discovery in criminal prosecutions.

Police officers in jurisdictions that deploy dash cams have developed expertise in using these electronic recording devices to preserve evidence and to protect themselves against false allegations of misconduct. Our State's longstanding experience with dash cams is important and must be integrated into the development of sound BWC practices and procedures. But it is not enough simply to copy and apply existing dash cam policies to this new form of electronic recording device. The inherent differences between dash cams and BWCs require a careful analysis of existing policies, practices, and procedures, recognizing that BWCs will record events that transpire during a much broader range of police-civilian encounters than traditionally have been recorded by dash cams. Vehicle-mounted cameras, of course, record events that occur out on the street, where there is a reduced expectation of privacy as compared to police-civilian encounters that occur, for example, inside private homes. An activated BWC, in contrast to a dash cam, will record events occurring during any type of police-civilian encounter occurring in any setting. BWCs thus raise privacy issues and other complex issues that dash cam policies have not had to address.

Accordingly, it is appropriate and necessary by means of this Directive to provide guidance to police departments on how best to balance competing interests and values to make the best possible use of this new law enforcement technology.

2. DEFINITIONS

For purposes of this Directive:

a. "Activate" means to actuate the recording mode/function of a body worn camera.[1]

b. "Body worn camera" ("BWC") means a device worn by a law enforcement officer that makes an electronic audio/video recording of activities that take place during any law enforcement action. The term does not include a mobile video recording device when mounted inside a police vehicle (i.e., a dash cam). The term also does not include any form of electronic recording device worn by a law enforcement officer while acting in an undercover capacity. Nor does the term include an electronic recording device when used to comply with the requirements of Rule 3:17 (electronic recording of station house custodial interrogations).

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1 Some BWC models may be turned on and remain in a standby or buffering mode, during which the device does not make a permanent record of images/sounds unless the officer activates the recording mode/function. With respect to these models, when the officer activates the recording mode/function, the device automatically preserves an electronic recording of the events that transpired a fixed period of time (e.g., 30 seconds) before the recording mode/function was activated. This time-delay or "buffering" feature allows the device to capture data concerning the event/circumstances that prompted the officer to activate the BWC. When an officer does not activate the recording mode/function, data captured while the device is in standby/buffering mode is overwritten automatically.

c. "Constructive authority" shall have the same meaning as defined in the Attorney General's Use of Force Policy, except that the term shall apply only to constructive authority directed against a person who is subject to an investigative detention or arrest (e.g., "show me your hands," "get out of the vehicle," etc.), or directed against any person if the officer has un-holstered a firearm or a conducted energy device (e.g., "move out of the way," "get down," etc.).

d. "Force" shall have the same meaning as defined in the Attorney General's Use of Force Policy. The term "force" shall include physical, mechanical, enhanced mechanical, and deadly force.

e. "Investigation of a criminal offense" means any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, or petty disorderly offense, including but not limited to responding to a report of a possible criminal offense; an investigative detention based on or leading to reasonable and articulable suspicion to believe that a criminal offense has been or is being committed; an arrest for a criminal offense; an interview of a potential witness to a criminal offense; or canvassing an area, neighborhood, or premises for potential witnesses to a criminal offense.

f. "Law enforcement agency," "agency," or "department" means a law enforcement agency operating under the authority of the laws of the State of New Jersey.

g. "Law enforcement officer" or "officer" means a sworn officer employed by a law enforcement agency.

h. "School" means an elementary or secondary school.

i. "Youth facility" means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, etc.

3. POLICE DEPARTMENT POLICIES GOVERNING DEPLOYMENT AND USE OF BWCs AND RECORDINGS

3.1 Promulgation of Police Department Policies and Procedures.

Within 60 days of the issuance of this Directive, every law enforcement agency that already has equipped any of its officers with a BWC shall promulgate and enforce a policy, standing operating procedure, directive, or order, in a form as may be appropriate given the customs and practices of the agency, which shall comply with the policies, standards, and requirements of this Directive. In the event that an agency has not deployed BWCs prior to the issuance of this Directive, the agency shall not deploy or use BWCs without first promulgating a policy, standing operating

use of a BWC to record the behavior of a person arrested for driving while intoxicated other than while the person is in the breath-testing area while the electronic breath testing device is being operated. If this provision requires de-activation of a BWC, the officer shall narrate the reasons for de-activation (e.g., "I am de-activating the BWC because the suspect is about to take a breath test."), and the BWC shall be re-activated when safe and practicable to do so following the completion of the breath testing operation.

7.6 Restrictions on Using BWCs With Enhanced Audio/Visual Capabilities.

Subject to the provisions of Section 12 of this Directive, if a department acquires a BWC with enhanced audio/video capabilities that allow it to record an image or conversation that could not be seen or heard by the officer wearing the device (e.g., infrared night vision or thermal imaging, sound amplification that would record conversations occurring at a remote distance), that feature/capability shall not be used without the express approval of the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee, in accordance with any applicable legal requirements.

8. RETENTION OF BWC RECORDINGS

The policy, standing operating procedure, directive, or order promulgated by a law enforcement agency pursuant to section 3 of this Directive shall specify the period of time during which a BWC recording shall be retained. The retention period shall not be less than 90 days, and shall be subject to the following additional retention periods:

a) when a BWC recording pertains to a criminal investigation or otherwise records information that may be subject to discovery in a prosecution, the recording shall be treated as evidence and shall be kept in accordance with the retention period for evidence in a criminal prosecution.

b) when a BWC records an arrest that did not result in an ongoing prosecution, or records the use of police force, the recording shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer and/or agency.

c) when a BWC records an incident that is the subject of an internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation and any resulting administrative action.

State of New Jersey
DEPARTMENT OF THE TREASURY
DIVISION OF REVENUE AND ENTERPRISE SERVICES
P. O. BOX 661
TRENTON, NEW JERSEY 08625-0308

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

FORD M. SCUDDER
Acting State Treasurer

JAMES J. FRUSCIONE
Director

Damaged Records Disposal Recommendation

TO: State Records Committee:

FROM: Vilirie D. Perry, Records Analyst 1

DATE: July 21, 2016

SUBJECT: Mount Olive Police Department for Disposal of Damaged Records Recommendation

Agency Disaster Narrative:

The Mount Olive Police Department, 204 Flanders-Drakestown Road, Budd Lake, New Jersey 07828 is requesting a Special Request for Disposal of Damaged Records.

On February 12, 2016, a complaint from two Mount Olive (MO) Police Department employees regarding the conditions present in the Police Department's records storage trailer; resulted into an investigation by MO Health Department. The MO Health Department deemed the present condition, a public and employee health hazard to those exposed to the environment (See attached).

Mount Olive Police department records have been stored in a large metal trailer container for over 17 years. The trailer has poor ventilation and holes on the ceiling and sides exposing it to the elements and rodents. The documents within the unit are stored in steel file cabinets however water and dampness has seeped in and caused significant mold and water damage. There are also a significant number of documents that have been destroyed by rodents eating the files and creating nests.

There are 18 individual records series listed on the Damaged Records Inventory. Of the 18 records series, six have not met their retention period. The 6 outstanding records series are:

Records Series #	Records Series title:	Inclusive Dates	Retention Period
36-0001	Criminal, Excluding Homicide - Arrest	1960-1994	75 years/Destroy
36-0005	Homicide (Record Copy)	1960-1994	Permanent
36-0006	Sudden and Accidental Deaths	1960-1994	Permanent
36-0009	Latent Prints, Photographs, and Negatives In Cases of Fatalities And Sudden Deaths	1960-1994	Permanent
53-0002	Fatal Accident Report Files- Closed	1960-1994	Permanent
95-0001	Crime Scene Video Tapes -	1960 1994	Permanent

These records are the only report copies available and there is no other way to recover them. However, the police department maintains a master name file within the police department that contains limited information about an incident and the people involved.

The remaining 12 records series have met their retention period and can be destroyed, upon the approval of the State Records Committee.

.

Measures have been taken to prevent future damage to the agency's records. Mount Olive Township has two newer climate controlled (Heat & AC equipped) records trailers where newer archived records (1994- 2008) are currently stored. The police department utilizes 1/3 of one of these trailers. The township plans to purchase a new trailer in 2016 to be used solely by the police department which will also be climate controlled. The police department stores all records from 2009- present on site at the police department.

Please find letters reports, pictures, quotes and other related materials.

Contact Person: Lt. Michael Spitzer Deputy Records Custodian 973-691-0900 Ext. 7571
Trevor Weigle, Mount Olive Local health officer

DEPARTMENT OF THE TREASURY
DIVISION OF REVENUE AND ENTERPRISE SERVICES
RECORDS MANAGEMENT SERVICES
Mailing: PO Box 661, Trenton, NJ 08625
Location: 2300 Stuyvesant Avenue, Trenton, NJ 08618

Damaged Records Report

Agency Name: MOUNT OLIVE TOWNSHIP OLIVE DEPARTMENT

Address: 204 FLANDERS DRAKESTOWN ROAD, BUDD LAKE,NJ 07828

Phone: 973-691-0900 Ext. 7571

Email: mikespitzer@mopd.org

Contact Person: Lt. Michael T. Spitzer

Date the damage occurred: Unknown - Long Term

Date the damage was discovered: 02/12/2016

Complete the following. (Answer field will expand to accommodate all answers)

1. Describe circumstances of how the damage occurred.

Records have been stored in a large metal trailer container for over 17 years. The crate has poor ventilation and holes on the ceiling & sides exposing it to the elements and rodents. The documents within the unit are stored in steel file cabinets however water and dampness has seeped in and caused significant mold and water damage. There are also a significant number of documents that have been destroyed by rodents eating the files and creating nests. In addition rodent feces & urine have been observed on a large number of records in the container as well.

2. What salvage attempts were made?

No salvage attempts have been made because the damage is so significant and the storage unit has been deemed uninhabitable by the local health officer, Trevor Weigle.

3. Were any of the records affected by this event salvageable?

No.

4. Why are these records unsalvageable?

The documents are covered in mold and most multi-paged documents can't be separated due to water damage. A large number of the documents have been contaminated with rodent feces and urine. In addition many of the records have been shredded and eaten by rodents creating nests.

5. Who determined that the records could not be salvaged?

Lt. Michael Spitzer, the Deputy Records Custodian along with the recommendation of the the Mount Olive Township Health Officer, Trevor Weigle.

6. Are there other copies of the damaged records in other locations or are there ways to reconstruct the damaged records (i.e. payroll records could be recovered from your payroll service provider)?

The documents stored in this unit are incident and arrest records of all different types from the years 1960-1994. Files may contain photographs, latent prints, property reports or other supporting documents as well. These records are the only report copies available and there is no other way to recover them. The department does however maintain a master name file within the police department that contains limited information about an incident and the people involved.

7. Are there additional records still maintained in the building? If yes, how are these records being protected?

No, the only records in this location are those mentioned above in question #6.

8. What measures are being taken to prevent future damage to the agency’s records?

Mount Olive Township has two newer climate controlled (Heat & AC equipped) records trailers where newer archived records (1994 - 2008) are currently stored. The police department utilizes 1/3 of one of these trailers. The township plans to purchase a new trailer in 2016 to be used solely by the police department which will also be climate controlled. The police department stores all records from 2009 - present on site at the police department.

Submit by Email

Damaged Records Inventory

DEPARTMENT OF THE TREASURY
DIVISION OF REVENUE AND ENTERPRISE SERVICES
RECORDS MANAGEMENT SERVICES
Mailing: PO Box 661, Trenton, NJ 08625
Location: 2300 Stuyvesant Avenue, Trenton, NJ 08618

AGENCY NAME MOUNT OLIVE TOWNSHIP POLICE DEPARTMENT

RETENTION SCHEDULE AGENCY NUMBER: M900000-006

SCHEDULE NUMBER: 006

Record Series Number	Record Series Name	Retention Time	Inclusive Years	Volume (cubic feet)	Damage Type	Other copies available?
0036-0001	Criminal, Excluding Homicide - Ar	75 Years	1960-1994	300	Mold	No
0036-002	Criminal, Excluding Homiced, Miss	7 Years	1960-1994	100	Mold	No
0036-004	Drunk Driving (Record Copy)	6 Years	1960-1994	25	Mold	No
0036-005	Homicide (Record Copy)	Permanent	1960-1994	15	Mold	No
0036-006	Sudden & Accidental Death (Record	Permanent	1960-1994	75	Mold	No
0036-007	Incident Reports (Copy)	1 Year	1960-1994	25	Mold	No
0036-0008	Latent Prints, Photo & Negs.-Non	Retain with	1960-1994	25	Mold	No
0036-0009	Latent Prints, Photo & Negs.-Fat	Permannet	1960-1994	10	Mold	No
0036-0010	Drunk Driving Video Tape	30 Days Afte	1960-1994	10	Mold	No
0038-0000	Juvenile Case Files	5 Years Afte	1960-1994	125	Mold	No
0041-0000	Juvenile Pictures & Fingerprints	5 Years Afte	1960-1994	10	Mold	No
0045-0000	Missing Person Log	3 Years Afte	1960-1994	5	Mold	No
0046-0000	Missing Person Report - Juvenile	1 Year After	1960-1994	75	Mold	No

Record Series Number	Record Series Name	Retention Time	Inclusive Years	Volume (cubic feet)	Damage Type	Other copies available?
0053-0001	Reportable & Non-Reportable Accid	3 Years	1960-1994	200	Mold	No
0053-0002	Fatal Accident Report Files - Clo	Permanent	1960-1994	50	Mold	No
0064-0000	Property Sheet/Receipt	3 Years Afte	1960-1994	40	Mold	No
0095-0001	Crime Scene Video Tapes - In Case	Permanent	1960-1994	5	Mold	No
0095-0002	Crime Scene Video Tapes - In Case	Retain with	1960-1994	5	Mold	No

Submit by Email

DEPARTMENT OF THE TREASURY
DIVISION OF REVENUE AND ENTERPRISE SERVICES
RECORDS MANAGEMENT SERVICES

Damaged Records
Disposal Certification

TO: State Records Committee

FROM: Lt. Michael T. Spitzer

DATE: March 7, 2016

SUBJECT: Mount Olive Township Police Department - Request to Destroy Damaged Documents

I hereby certify that the records listed on the attached ***Request and Authorization for Records Disposal*** form(s) have sustained significant damage that warrants their disposal. All attempts to salvage said records have proven unsuccessful or not cost-effective. Subsequently, continued retention of said records has been deemed impratical.

Michael Spitzer

Signature

Lt. Michael Spitzer - Deputy Records Custodian, Mt. Olive Police

Title

Submit by Email

TOWNSHIP OF MOUNT OLIVE

DEPARTMENT OF HEALTH

204 Flanders-Drakestown Road
P.O. Box 450
Budd Lake, NJ 07828
Phone: (973) 691-0900
Fax: (973) 691-7681
www.mountolivetownship.com

Public Health
Prevent. Promote. Protect.

MEMORANDUM

To: Laura Harris, Business Administrator

From: Trevor J. Weigle, Health Officer TJW

CC: Mark Spitzer, Chief of Police

Date: February 26, 2016

Re: **Police Records Storage**

Please be advised that on February 12, 2016 this Department investigated a complaint from two Mt. Olive Police employees regarding conditions present in the Police Department's records storage trailer. Rodent fecal matter and urine, and mold was present in the trailer and on the records. These conditions present a public and employee health hazard to those exposed to the environment. The rodent waste present on many of the records is a potential for exposure to communicable diseases, such as Tularemia, Typhus and Hantavirus. The mode of transmission for Hantavirus occurs both via inhalation and direct contact and as such individuals who come into contact with rodent waste are at risk. The conditions present may also violate the New Jersey Public Employees Occupational Safety and Health (PEOSH) Act (N.J.S.A. 34:6A-25 et seq.), specifically:

34:6A-33. Responsibilities of employers
every employer shall:

a. Provide each of his employees with employment and a place of employment which are free from recognized hazards which may cause serious injury, physical harm or death to his employees.

We believe that it is in the best interest of the Township to address the present hazards in an effort to protect employee health and avoid violating requirements established by N.J.S.A. 34:6A-25.

This investigation/complaint is documented as "Work Order Number 31040" in the IWORQ system. Attached is a hardcopy of same for your reference.

Thank you for your attention to this matter.

Work Order Information

Date	2/12/2016
Work Order Number	31040
Internal/ External	Response to complaint/ external
Work Description	Mold & Rodents Infestation
Location of problem	204 Flanders-Drakestown Rd. (Records Trailer)
Block	
Lot	
Problem Code	004: Health Inspections Complaint
Name of person inputting	Derrick Webb
Department	008: Health and Transportation
Customer Name	Officer Michael Russell, Officer Marianne Wurtemberg
Address	N/A
Phone	Ext. 7596, Ext. 7596
Email	
Status	003: Open - Pending Resolution
Municipal Facility Location	
Municipal Facility Location	
Municipal Facility Location	
Municipal Facility Location	
Municipal Facility Location	
ACO Control Call Type	
ACO Incident field	
ACO Disposition	
Off-Site Location	
Health Shared Service Town	
ACO Scanned	
FEMA Event	
Driver name	
Driver vehicle used	
Retail Food Inspection	
Inspection Type	
(defunct) Transportation- # of Passengers	
Time Spent	0
date requested	/ /
Time Requested	
State of Emergency Event	
Transportation- # of Passengers	

Notes

Date	Note
2/26/2016	Refer to WO # 31370 for progress of container repairs.
2/17/2016	In response to the complaint, I (Derrick Webb, REHS) conducted an inspection of the records container. Upon inspection, I observed a large amount of rodent droppings and dander in many of the boxes and in some of the filing cabinets located within the container. Some of the records held within these containers were littered with a mold like material, rodent droppings, and possibly urine. I observed (3) large holes in the container that could possibly serve as points of entry. The floor is composed of wood and was wet at the time of the inspection. Surrounding the container is a considerable amount of vegetative growth; a large wooded area is also located directly behind the container. The conditions observed within the container could serve as a possible public health hazard. I spoke to John Geiger in regards to the holes of the container, he informed me that he would make an effort to seal the openings to prevent the entry of pest.
2/12/2016	I (Derrick Webb, REHS) was forwarded a complaint in regards to a possible rodent infestation and the presence of mold in the Mt. Olive records trailer located behind the fleet portion of the municipal property. I contacted Officer Michael Russel in regards to the matter, and made arrangements to inspect the trailer on 02/16/16 @ 9:30 am.

Uploaded Files

Upload File

Date	File

Signature: _____ **Date:** _____

TOWNSHIP OF MOUNT OLIVE

DEPARTMENT OF HEALTH

204 Flanders-Drakestown Road
P.O. Box 450
Budd Lake, NJ 07828
Phone: (973) 691-0900
Fax: (973) 691-7681
www.mountolivetownship.com

Public Health
Prevent. Promote. Protect.

MEMORANDUM

To: Laura Harris, Business Administrator

From: Trevor J. Weigle, Health Officer TJW

CC: Mark Spitzer, Chief of Police

Date: March 1, 2016

Re: **Access to Police Records Storage Recommendations**

In follow-up to our February 29, 2016 meeting where we discussed the findings of the Health Department's investigation of the Police Department's record storage container we consulted with our colleagues who work as hazardous materials emergency responders with the Morris County Office of Health Management. We agree with their recommendation regarding the appropriate level of personal protective equipment (PPE) needed to access the storage container.

Anyone entering the container regardless of the amount of time or purpose should wear appropriate foot and leg coverings, disposable gloves and a N-95 respirator (mask). Prior to the use of any of this or other PPE, employees must be appropriately trained in the proper use, donning and doffing of PPE. In addition anyone wearing a N-95 must first be fit-tested. Please be advised that PEOSHA may have additional requirements/standards and that that office should be contacted.

This investigation/complaint (#31040) has been updated in the IWORQ system.

Thank you for your attention to this matter.

Gazzo
NTRDIOT
CRONOS
Concert
Parking

D

POLYGON

Laura Harris
Mount Olive Township
P.O. Box 450
Budd Lake, NJ 07828

03/10/2016

Dear Bob,

Thank you for the opportunity to provide the following service proposal.

Polygon is the international leader in water damage recovery with offices in 15 countries. It services the U.S and Canada from its headquarters in North Andover, MA and its 24 regional and district offices located in major cities.

The servicing office for this project is at:	7377 William Avenue, Suite 100, Allentown, PA 18106
Our phone number is:	877-597-2743
Our fax number is:	610-837-4343

Polygon's proposal is for the following Scope of Work:

Documents - General

Polygon will provide cleaning, drying, odor neutralization and gamma irradiation (mold remediation) services to approximately 1200 cubic feet of damaged files/documents. These services will be performed at Polygon's Document Restoration Facility in Allentown, PA. Document restoration technicians will maintain the documents in the same order they were in when packed-out of the facility. Where the cubic footage is in question, Polygon reserves the right to confirm total cubic footage of documents once the water damaged materials are re-inventoried in our drying facility. This confirmation will then be communicated to our customer. Polygon respects the privacy and confidentiality of your valued materials. Our drying facility is fully secured and off limits to all personnel unless escorted by authorized Polygon employees.

Documents - Returned Condition

It is understood that documents, once damaged, can never be restored to their pre-loss condition. Any damage to the paper structure, bleeding of inks and/or staining from dirt, soot, or mold will not be reversed. Documents when dried, will generally be more wrinkled, papers may stick together more than prior to the loss and will generally expand in volume.

Documents - Transport

Polygon will ship the documents to the restoration facility by appropriate means to mitigate further damage.

Sincerely,

Matt DeCirce
Account Manager

Bill To	Ship To
Customer: Mount Olive Township	**Customer:** Storage Engine
Contact: Laura Harris	**Contact:** Bob Rozinski
Phone:	**Phone:**
Fax:	**Fax:**
Address: P.O. Box 450	**Address:** 1 Sheila Drive
City: Budd Lake **State:** NJ **Zip:** 07828	**City:** Tinton Falls **State:** NJ **Zip:** 07724
E-Mail:	**E-Mail:** bobr@storageengine.com

Project Description: document restoration

Polygon Labor*

Labor Rate Category	Hours	Rate	Ext $
Document Restoration Laborer - Regular Rate	50	$39.00	$1,950.00
		Total	$1950.00

***Time & 1/2 will be charged after 8 hours and on Saturdays and double time will be charged on Sundays and National Holidays.**

Total Freight Estimate: $2,000.00

Document Services

Service Description	Qty	Units	Price/Cube	Ext $
Boxes-MCS, 1.2 Cubic Ft.	1000	1	$6.20	$6200.00
Cleaning Level 3 - Document Per Cubic Ft.	1200	1	$153.71	$184452.00
Drying per cubic foot for 1,001 and up cubic feet, per Cube	1200	1	$62.00	$74400.00
Irradiation - Gamma Ray 81-Up Cube (per cube charge)	1200	1	$20.00	$24000.00
Odor Neutralization, Per Cube	1200	1	$5.70	$6840.00
Stabilization Freezer Storage, Per Cube-Per Month	1200	1	$7.50	$9000.00
Supplies Budget	4	1	$50.00	$200.00
Wood Pallets, Each	34	1	$30.98	$1053.32
			Total	$306145.32

Estimate Totals

Labor	$1,950.00
Freight	~~$2,530.00~~
Document Services	$306,145.32
Total Cost Estimate (Plus any applicable sales tax)	$310,625.32

Initials __

BELFOR PROPERTYRESTORATION

04-18-16

Ms. Laura Harris
Administrator
Mount Olive Township
204 Flanders-Drakestown Road
Budd Lake, NJ 07828

Re: Records Decontamination

Ms. Harris,

Thank you for considering Belfor for restoring your court records damaged by mold and pest infestation. As we discussed Belfor is considered the leader within the document restoration field and has successfully completed numerous projects for New Jersey Government entities associated with damage from Hurricane Irene and Tropical Storm Lee.

Normally we treat documents with Gamma Radiation which renders any organic contaminants non-viable. Cleaning and decontamination will remove the majority of remaining non-viable mold and other contaminants. Some staining of the documents will remain. The goal of the process is to make the documents legible and safe to handle.

Please feel free to call with questions or for clarifications.

Thank you,

Mitchell Parks
Belfor Technical Services

BELFOR PROPERTYRESTORATION

Decontamination Pricing

1. Shipping to Belfor Document Laboratory-	$1,250
2. Document Decontamination 360 cubic feet CF x$135	$48,600
3. Gamma Radiation 360 CF x $25	$9,000
4. Re-boxing (Belfor provided boxes) 240 x $5	$1,200
5. Return shipping	$1,250
Total	**$61,300**

Imaging Pricing

360 CF x 2500 pages per CF =900,000 x $.22 per image =	$198,000

Price includes decontamination of documents using proper PPE for technicians to prep for imaging. Also includes decontaminating equipment and imaging space post project completion.

Imaging will utilize DARM standards unless instructed differently

Certified Destruction Pricing

360 cubic feet x 35 pounds per CF= 12,600 pounds @ $.22	$2,722
Shipping	$1,250
Total	**$3,972**

Quantities are based on an inspection of the container by William Reiss on 04-14-16 any changes in quantity may result in additional charges.

Mount Olive, NJ

Document Restoration Scanning

April 18th, 2016

SUBMITTED BY:
Vincent DeTommaso
Foveonics Imaging Technologies, Inc.
310 Main Street, Suite 6
Toms River, NJ 08754
866-330-6577 Phone
732-228-6101 Fax
vincent@foveonics.com
www.foveonics.com

G: Pricing Option 1

Description	Quantity	Total
Forklift Rental	1.0	$1,200.00
Document Supervisor	16.0	$880.00
Document General Laborer	64.0	$2,080.00
Cleaning - Level 3 (per cu. ft.)	1200.0	$150,192.0
Freeze Drying - (1001+ cu. ft)	0.0	$0.00
Cost per cu. ft. if documents are wet. Each box will be checked to determine moisture content. $50.00 per cu. ft.		
Cleaning - Additional (per cu. ft)	0.0	$0.00
Additional charge if microbial growth is present. $109.54 per cu. ft.		
Shipping	1.0	$5,000.00
Cost + 20%		
Gamma Irradiation (per cu. ft.)	1200.0	$15,000.00
SUB-TOTAL		$174,352

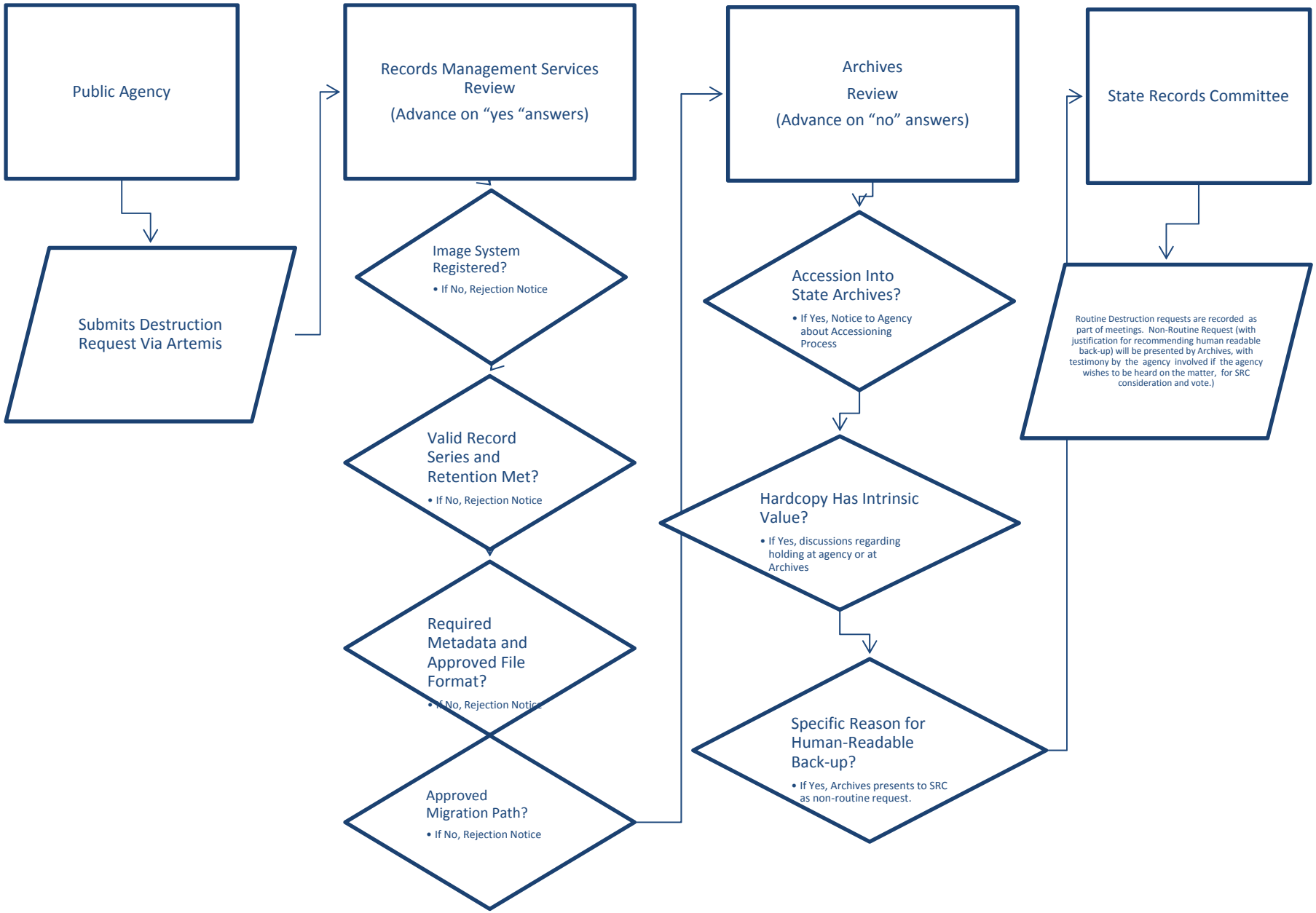
Approximately 1.2m to 1.5m Images to be scanned after cleaning

Scanning Costs (.10cents to .30 cents 8 ½ x 11 up to 8 ½ x 14). (20 cents average) $240K to 300K

Grand Totals: $414,352 to $474,352

Quote estimate is based on no physical site survey. We reserve the right to raise or lower the quote based on actual count and site survey.

Request to Dispose of Hardcopy Version of Scanned Records with Permanent or Archives/Archival Review Retention



State of New Jersey
DEPARTMENT OF STATE
TRENTON NJ 08625

CHRIS CHRISTIE
Governor

LT. GOVERNOR KIM GUADAGNO
Secretary of State

Reply to: NEW JERSEY STATE ARCHIVES
225 WEST STATE STREET, P.O. BOX 307
TRENTON, NJ 08625-0307
TEL. (609) 292-6260 • FAX (609) 292-9105
www.nj.gov/state/Archives

MEMORANDUM

From: Joseph R. Klett, Executive Director
New Jersey State Archives
Department of State

To: Cameryn Hinton, Esq., Deputy Attorney General
Division of Law
Department of Law and Public Safety

RE: Proposed revision of *N.J.A.C.* 15:3

Date: 28 June 2016

Chapter 15:3 of the *New Jersey Administrative Code* is up for re-adoption on September 21st of this year. These regulations implement *N.J.S.* 47, the State's public records law, and are assigned to the Department of State, which administers the Division of Archives and Records Management.

Early last month, the Department of State provided the Governor's Counsel's Office with a proposed revision of the administrative code chapter. This was part of a broader effort by the Administration to streamline regulation from various sectors of state government. Our proposed revision removed obsolete sections of the code, eliminated definitions of unused terms, clarified the definitions of others, simplified lists and references to standards, and removed lengthy reiterations of statutory language in favor of citations to the statute.

Our proposed revision was approved by the Counsel's Office in mid-June. Additionally, Counsel's Office requested that 15:3-1.1, the "Purpose; scope" section, be deleted altogether.

N.J.S. 47:3-20 charges the State Records Committee (SRC) with promulgating regulations relating to public records administration generally, to be "not inconsistent with law, as may be necessary to effectuate such powers and duties" of the Division of Archives and Records Management. Given the re-adoption timeline, the SRC will need to act of any proposed revision at its upcoming meeting on July 21st.

In light of this, we respectfully request an expedited review of the proposed code revision by your office. In order to provide the State Records Committee sufficient time to review the document before it convenes, we seek a complete the review by the Attorney General's Office before July 7th. As the proposed changes represent, largely, a streamlining of the code, with some relatively minor clarifications, we hope that this request is reasonable.

Please let me know whether your office will be able to adhere to this deadline. And please accept our sincere thanks, in advance, for your time and efforts. I regret that the request could not be made sooner, as we needed to resolve questions relating to variant proposed revisions from the Department of State and the Department of Treasury (which currently oversees the Division of Archives and Records Management's "records management services"). These questions have been resolved. Both departments have agreed to proceed with the Department of State's proposed revision.

Below you will find a summary of the proposed changes. Attached you will find an edited version of 15:3 with proposed insertions bolded and proposed deletions bracketed.

Thank you.

cc Dennis Robinson, Chief of Staff, Department of State
David Vitali, Deputy Chief of Staff, Department of State

Global Changes

1. Throughout the chapter, the Division of Archives and Records Management is referred to in various ways: by its full name—sometimes including "in the Department of State"; by just the "Division"; and as "DARM". The Department of State proposes that all references be simplified to just "Division", which is defined in 15:3–1.2. This entails deletions in the following locations:

   15:3-2.1(b)6
   15:3-2.1(b)7
   15:3-2.1(c)2
   15:3-2.1(f)1
   15:3-2.1(f)1i
   15:3-2.2(a)1
   15:3-2.2(a)2 {two instances}
   15:3-2.2(a)4
   15:3-2.2(d)1ii
   15:3-2.2(d)2i
   15:3-2.2(d)2iii
   15:3-2.2(d)3v
   15:3-2.2(d)3viii
   15:3-2.2(d)3xi
   15:3-2.2(e)
   15:3-2.2(h)1
   15:3-2.2(h)3
   15:3-2.2(h)4
   15:3-2.2(h)4 iv {two instances}
   15:3-2.4(a)

15:3-2.4(b)
15:3-2.6(a)
15:3-2.6(c)1
15:3-2.6(c)2
15:3-2.6(c)3
15:3-3.2
15:3-3.5(b)2
15:3-3.6(a)
15:3-3.6(b)5ii
15:3-3.13(c)6
15:3-3.17
15:3-3.18(a)
15:3-3.18(c)
15:3-3.18(d)3i
15:3-3.18(f)
15:3-3.18(g) {two instances}
15:3-4.1(a)
15:3-4.1(b)
15:3-5.2[3]
15:3-6.1(a)
15:3-6.1(c)
15:3-6.3(a)
15:3-6.3(e)2
15:3-6.4(c)1
15:3-6.4(c)4i(1)
15:3-6.4(c)4i(2)(A)
15:3-6.5(c)8ii(1)
15:3-6.5(d)2viii {two instances}
15:3-6.6 9(b)

2. Also, throughout the title, the Director of the Division of Archives and Records Management is sometimes referred to with the full title (including the agency) and sometimes just referred to as "Director". The Department of State proposes that all references be simplified to just "Director", which is defined in 15:3–1.2. This entails deletions in the following locations:

15:3-2.1(b)1
15:3-2.1(b)7
15:3-2.1(e)4
15:3-2.1(g)2
15:3-2.2(a)2
15:3-2.2(h)3
15:3-2.2(h)4iv
15:3-2.2(h)4vi
15:3-2.4(a)
15:3-2.4(b)
15:3-3.14(c)

15:3–1.1 Purpose; scope

This section is proposed to be deleted at the request of the Governor's Counsel's Office.

15:3–1.2 Definitions

1. With the deletion of the "Purpose: scope" section, this section should be renumbered as 15:3-1.1.

2. The Department of State proposes the following deletion (bracketed) in the introductory paragraph:

   The words and phrases used in this chapter shall have the [meanings as defined in ARMA A4759 (2007), Glossary of Records and Information Management Terms; ANSI/AIIM TR2-1998, Glossary of Document Technologies; and SAA 460 (2005), A Glossary of Archival and Records Terminology, as amended and supplemented, incorporated herein by reference, except the following words and phrases, which shall have the] designated meanings, unless the context clearly indicates otherwise:

   Reference to external standards here, some of which may be outdated, is superfluous. Specific definitions pertinent to the chapter were presumably gleaned or adapted from these documents as appropriate.

3. The Department of State proposes that the definitions for the following basic terms are not necessary and can be deleted:

   "directives"
   "file"
   "file management"
   "form"
   "report"

4. The Department of State proposes that the definitions for the following terms are redundant to the definition of "agency", are not necessary, and can be deleted:

   "local agency"
   "state agency"

5. The Department of State proposes that the definitions of the following terms, which are not actually used in the chapter (and in some cases are outdated), can be deleted:

   "automated records system"
   "automated records management system"
   "commercial purpose"
   "data archive"
   "disposable records"
   "forms analysis and design"
   "forms management"
   "imaging facility"
   "information resource management"
   "machine-readable records"
   "media maintenance plan"
   "public administrative building"
   "recordkeeping requirements"

6. The Department of State proposes cross-referencing "archival records" to the definition of "permanent records", which means the same thing. This is consistent with State Records Committee policy as memorialized in its minutes of 12 December 2013.

7. The Department of State proposes removing the reference to the State Archives in the definition of "archives" and renumbering the current 2nd and 3rd definitions as the 1st and 2nd, respectively. "State Archives" is defined separately in this sub-sub-chapter.

8. The Department of State proposes the following insertion (bolded) in the definition of "Director" to clarify:

   "Director" means the head of the Division of Archives and Records Management in the Department of State as established under the Governor's Reorganization Plan, filed April 25, 1983. (See the definition of "Division of Archives and Records Management.") The Director of the Division of Archives and Records Management acts as Secretary to the State Records Committee and is responsible for the proper recording or its proceedings.

9. The Department of State proposes deleting the definition of "municipality" and referring instead to *N.J.S.* 40:42-1.

10. The Department of State proposes adding a cross-reference under "New Jersey State Archives" to the definition of "State Archives".

11. The Department of State proposes adding **or "archival records"** to the defined term "permanent records". This is consistent with State Records Committee policy as memorialized in its minutes of 12 December 2013.

12. The Department of State proposes clarifying the cross-reference for "public record" as follows:

    "Public record(s)" [or "public records"] (see the definition of "record(s)").

13. The Department of State proposes that "record(s)" or "public record(s)" be defined by reference to *N.J.S.* 47:3–16 without reiteration of the statutory language.

14. The Department of State proposes removing the reference to the State Records Center in the definition of "records center" and making the 1st definition the only (unnumbered) definition. "State Records Center" is defined separately in this sub-sub-chapter.

15. The Department of State proposes adding a cross-reference under "records storage facility" to the definition of "records center".

16. The Department of State proposes removing the duplicate definition of "records series", out of place alphabetically between "retention schedule" and "retention period".

17. The Department of State proposes revising the definition of "retention period" to provide a more concise and correct definition as follows:

    "Retention period" means

    1. T[t]he period of time that must elapse before [the] **non-permanent** records **may be destroyed, with authorization** [are disposed of or transferred to an archive; specifically, in the case of State agencies, the State Archives]; **or**
    2. **In perpetuity, with regard to records designated as permanent or archival.**

    Records still have a retention period after they come into the State Archives (and it's not always permanent—material is weeded as it is discovered to be nonpermanent, and destroyed with authorization).

18. The Department of State proposes the that "State Archives" or "New Jersey State Archives" be defined more appropriately, in the introductory paragraph, as follows:

    [the "New Jersey State Archives" or "Office of Archives and History," pursuant to P.L.1994, c.140, § 10 (N.J.S. 47:1-15),] an establishment maintained by the Division of Archives and Records Management in the Department of State **pursuant to P.L. 1920, c.46, as Amended by P.L. 1924, c.203 (N.J.S. 47:2-1 to 8); P.L.1994, c.140, § 10 (N.J.S. 47:1-15) and** [as established under] the Governor's Reorganization Plan, filed April 25, 1983, and as set out under N.J.S. 18A:73-26; **being** [and] the successor to the Public Records Office [established under P.L. 1920, c.46, as Amended by P.L. 1924, c.203 (N.J.S. 47:2-1 to 8)]

19. The Department of State proposes that "State Records Committee" be defined by reference to N.J.S. 47:3–20 without reiteration of the statutory language.

20. The Department of State proposes using the more concise definitions of "vital records" and "vital records program" given in 15:3–2.5 (c) instead of the definitions currently given here.

15:3–1.3 Systems of recording; rules; alteration, correction, and revision of records

No changes are proposed for this section other than renumbering as 15:3-1.2.

15:3–1.4 Examination and transfer of public records; preservation and acquisition

1. With the deletion of the "Purpose: scope" section, this section should be renumbered as 15:3-1.3.

2. The Department of State proposes that this section could simply cite *N.J.S.* 47:2-3 through 2-8 rather than paraphrasing/reiterating the statutory language.

15:3–1.5 Responsibilities of public agencies: records programs

1. With the deletion of the "Purpose: scope" section, this section should be renumbered as 15:3-1.4.

2. The Department of State found minor typographical errors that need correction in (a)2:

   2. Inform the Division of technical, legal or procedural innovations or solutions to problems which have been adopted by the agency and which contribute to effective and efficient records management; c[C]ooperate with the D[d]ivision in surveys of historical and other public records for the purpose of planning and s[S]tatewide needs assessments;

15:3–1.6 Standards referenced

1. With the deletion of the "Purpose: scope" section, this section should be renumbered as 15:3-1.5.

2. The Department of State proposes that identification of the following standards organizations be placed here instead of in 15:3–4.2, after introductory text **The standards referenced in this chapter have been developed by the following organization:**

AIIM
ANSI
ARMA
ASTM
CCITT
DoD
IEEE
ISO
NISO
NIST
OSF
SAA
TAPPI

Certain contact information for these organizations as currently provided in 15:3–4.2 may be out of date, and is therefore not proposed to be included in 15:3–1.6. Organizational contact information can be readily found on the Internet.

3. The Department of State proposes deleting all references to specific standards here, along with the relevant introductory language, since the specific standards are cited in the sections wherever/whenever pertinent. This eliminates redundancy and isolates references to specific standards in their respective contexts.

15:3–2.1 Retention and disposition of public records

1. The Department of State proposes that the introductory paragraph to (a) cite *N.J.S.* 47:3-15 through 32 as follows:

   (a) **See N.J.S. 47:3-15 through 32 relative to** [The following pertain to] authorization for destruction of public records **and the establishment and purpose of the State Records Committee.** [, under the Destruction of Public Records Law, N.J.S. 47:3-15 through 32:]

   and that 1. through 4. thereunder, as well as the introductory paragraph in (b) be deleted rather than reiterating/paraphrasing statute.

2. The Department of State proposes the following changes to current (b)6:

   5[6]. No official vote or action shall be required for **routine** administrative actions of the staff of the Division [of Archives and Records Management] previously authorized by the Committee **unless such actions are deemed no longer routine or administrative in nature** [, including, but not limited to, approval of destruction of public records in accordance with established record retention schedules, changes in previously approved record retention schedules due to name changes or reorganization of State or local agencies or units within such agencies, and annual renewal of certification of image processing systems for public records or other administrative actions regarding certifications of such imaging systems]. Notification of **all** [such] administrative actions by the Division shall be declared and recorded at the subsequent meeting of the Committee.

   What the State Records Committee has designated as "routine administrative actions" may differ, or could differ in the future, from the short list currently given. There is no obvious value to including a list here.

3. In the introductory paragraph in (e), the Department of State proposes changing two references to "recordskeeping" (which is not a word) to "recordkeeping".

4. In (g)2. the Department of State proposes correcting "Chairman" to "Secretary".

5. The Department of State proposes deleting (h)—the address and website. That shown is the address of the State Archives in the Department of State; and the website is outdated.

15:3–2.2 Disposal of Public Records

1. The Department of State proposes deleting the address in (e). That shown is the address of the State Archives in the Department of State.

2. The Department of State proposes references in (h)4 to "Depository Agreement" not be capitalized, since this is not a defined term.

3. The Department of State proposes deleting the address in (h)4iv and v.

15:3–2.3 State Records Center

1. The Department of State proposes inserting the word **Storage** in the heading, so that it will read State Records Storage Center (the proper name).

2. Since this section relates, specifically, to the State's facility, it is not necessary to include both (a) and (b). The Department of State proposes eliminating (b) and (c) and identifying current items (a)1 through (a)5 instead as (a) through (e), with wording changes, to read in full as follows:

§ 15:3-2.3 State Records **Storage** Center

[(a) The following pertain to records storage centers:]

(a)[1.] The State shall maintain [A records storage center, commonly called a records center, is] a [low cost,] centralized **State Records Storage Center** [area] for housing and servicing noncurrent and semicurrent records whose reference rate does not warrant their storage in expensive office space and equipment.

(b) [2.] Records should be transferred to the **facility** [records center] when they become sufficiently inactive to permit their removal from the offices having custody of them.

(c) [3.] Records transferred to **this facility** [the records center] remain in the legal custody of the originating agency **unless or until accessioned by the State Archives**.

(d) [4.] The **facility will** [records center] furnish[es] the necessary retrieval service to the files in its custody, return designated files to the originating agency for reference, and dispose of records after their retention period has expired.

(e) [5.] **The facility will** [Records centers used for the storage and maintenance of public records must] meet all standards and guidelines established for storage as established under N.J.A.C. 15:3-6, Storage of Public Records.

15:3–2.4 State Archives

1. The Department of State proposes the following changes to (a) in order to more accurately describe practice:

   (a) Records in the custody of State agencies designated as permanent or archival records shall be transferred to the Division [of Archives and Records Management] for permanent preservation. The Director [of the Division of Archives and Records Management,] or his or her representative[,] shall designate which records are archival. Such designation shall be **based on** [approved by the State Records Committee and incorporated in a] records retention schedules [for such records] **and the appraisal and analysis of the historical value of the records, also known as "archival review."**

   The State Records Committee no longer distinguishes between "permanent" records and "archival" records, as was memorialized in its minutes of 12 December 2013.

2. Similarly, the Department of State propose the following changes to (b) in order to accurately describe practice:

   (b) Archival or permanent records in the custody of local agencies may, upon determination of **and in accordance with the policies of** the Division, be transferred to the Division [of Archives and Records Management for permanent preservation]. The Director [of the Division of Archives and Records Management,] or his or her representative[,] shall designate which records are archival. Such designation shall be **based on records retention schedules and the appraisal and analysis of the historical value of the records, also known as "archival review."** [approved by the State Records Committee and incorporated in a records retention schedule for such records].

   Note that the State Records Committee does not set the State Archives' collecting policy for local records as was memorialized in its minutes of 12 December 2013.

3. Relative to (e), the Department of State proposes that cross-reference be made here to 15:3–2.6 regarding records of extinct agencies, and that 1 through 3 thereunder be deleted as they are duplicative of 15:3–2.6.

15:3–2.5 Vital records program

1. In (c), the Department of State proposes deleting the following definitions already given in 15:3–1.2 (which is specifically referenced in the introductory paragraph here):

   "off-site storage"
   "vital records"
   "vital records program"

2. The Department of State proposes the following changes to (j)4 & 5 in order to clarify and simplify:

   4. **Original vital records transferred by** State agencies [that transfer permanent, original vital records] into the physical and legal custody of the State Archives become the permanent legal responsibility of the Archives. This transfer of legal custody is a major distinction between the services provided by the State Archives and the State Records Storage Center.[:] **In the State Records Storage Center, only physical custody passes from the agency of origin: legal ownership is not affected; the agency may request the return of its records at any time; and it alone controls access to those records.**

[i. In the State Records Storage Center, only physical custody passes from the agency of origin; legal ownership is not affected. The agency may request the return of its records at any time, and it alone controls access to those records.

ii. In the State Archives, legal as well as physical custody passes from the agency of origin to the State Archives. Legal ownership is transferred to the State Archives to ensure permanent preservation of the record.]

5. The transfer of records from any public agency and accession[ing] of them into the [custody of the] State Archives shall be documented in an Accession Record, including signed forms and other documentation **assigning** [transferring] physical [and legal] custody and **legal** ownership of all rights to the State Archives. County and municipal agencies should contact their local archives [or historical society] for specific information about their **accession** policies and procedures.

15:3–2.6 Records of extinct agencies

1. The Department of State proposes deleting the definition of "absorbing municipality" since it is not actually used.

2. In (c)3ii. the Department of State proposes insertion of the word **Storage**.

3. The Department of State proposes the following changes to (c)4 in order to clarify and more accurately reflect practice:

   4. Review [and approval] of the Division's recommendations by the State Records Committee regarding final disposition of such records, pursuant to P.L. 1953, c.410 (N.J.S.A. 47:3-15 et seq.), known as the Destruction of Public Records Law (1953)[, prior to any transfer or other disposition of any records of the extinct agency];

15:3–2.7 Standards for paper

1. The Department of State proposes simply listing the 3 cited standards (with the name of the issuing organization as an acronym) after an introductory paragraph to read/be changed as follows:

   [(a) Statement of applicability.] The[se] **following** standards shall apply to records of State or local government agencies that have been designated as permanent or archival records pursuant to P.L. 1953, c. 410 (N.J.S.A. 47:3-15 et seq.) and to any volumes or papers used for recording permanent or archival records. **Identification of the issuing organization can be found in N.J.A.C. 15:3-4.2.**

   and deleting the (b) introductory paragraph.

2. The Department of State proposes deleting (c), which gleans definitions from the cited standards.

3. The Department of State proposes deleting (d) relative to minimum requirements for uncoated permanent paper. This standard is essentially unenforceable, perhaps outdated, and increasingly irrelevant as more permanent records are "born digital" (i.e., electronic files).

15:3–3.1 Standards for microfilming public records; purpose

No changes are proposed for this section not covered under **Global Changes** above.

15:3–3.2 Authority to establish microfilm standards

No changes are proposed for this section not covered under **Global Changes** above.

15:3–3.3 Microfilm standards; definition

1. The Department of State proposes the introductory paragraph be changed as follows:

   The words and phrases used in this subchapter shall have the standard meaning of records management terminology as defined in N.J.A.C. 15:3-1.2.[, except t]. T[t]he following **additional** words and phrases in [which apply to] this subchapter [and] shall have the designated meanings, unless the context clearly indicates otherwise:

2. The Department of State proposes deleting the definitions of the following terms, which are not actually used:

   "micrographics facility"
   "temporary record"

3. The Department of State proposes deleting the definitions of the following terms already defined in 15:3-1.2:

   "permanent record"
   "records storage facility".

15:3–3.4 Microfilm standards incorporated by reference

1. The Department of State proposes deleting "as amended and supplemented" in the intro paragraph as this might imply rulemaking outside of the rulemaking process.

2. The Department of State proposes deleting the reference to copies of standards being available at the 2300 Stuyvesant Avenue address, as the standards themselves are also available on the Internet.

3. The Department of State proposes deleting the addresses/websites given in (a)1, 2, and 3, as they are dated and readily found online.

4. Since there is no section (b), the Department of State proposes 1 through 3 be relabeled as (a) through (c), and the standards listed by Roman numeral thereunder be relabeled with Arabic numerals.

15:3–3.5 State and local agencies; microfilmed records

No changes are proposed for this section.

15:3–6 Microfilm standards; reproduction of original records

In (b)2: current iii and iv should be corrected to read "iv" and "v", respectively.

15:3–3.7 Aperture cards

No changes are proposed for this section.

15:3–3.8 Computer output microfilm

No changes are proposed for this section.

15:3–3.9 Microfiche

No changes are proposed for this section.

15:3–3.10 Updateable microfiche systems

No changes are proposed for this section.

15:3–3.11 Microfilm created from digital images; certification, approval

No changes are proposed for this section.

15:3–3.12 Duplication of original records after microfilming

No changes are proposed for this section.

15:3–3.13 Storage of microforms

No changes are proposed for this section.

15:3–3.14 Transfer of microforms

The Department of State proposes the following change to (c):

> (c) Agencies may transfer permanent or archival records in microform to the legal custody of the State Archives, provided the microfilm has been certified as conforming to State standards and a records retention schedule has been approved for the records by the State Records Committee as permanent or archival records, or the Director [of the Division of Archives and Records Management or the Chief of the Bureau of Archives and History have] **or his designee has** approved the transfer of such records to the State Archives. Agencies transferring microforms to the State Archives shall:

15:3–3.15 Disposal of original records after microfilming

No changes are proposed for this section.

15:3–3.16 Inspection of microforms …

No changes are proposed for this section.

15:3–3.17 Notice of intention to microfilm public records

No changes are proposed for this section.

15:3–3.18 Microfilm projects

No changes are proposed for this section not covered under **Global Changes** above, except the proposed insertion of 's in (g).

15:3 – 4.1 Image processing of public records; purpose

No changes are proposed for this section not covered under **Global Changes** above.

15:3–4.2 Definitions

1. The Department of State proposes deleting the "as amended and supplemented" references in the introductory paragraph, as they may imply rulemaking outside of the rulemaking process.

2. The Department of State propose deleting the following definitions already given in 15:3–1.2:

   "agency"
   "Division of Archives and Records Management"
   "image processing"
   "imaging"
   "long-term record"
   "multifunction device"
   "public record"
   "State Records Committee"

3. The Department of State proposes deleting all references here to standards organizations and their address/telephone/website info, as follows:

   AIIM
   ANSI
   ARMA
   ASTM
   CCITT

DoD
IEEE
ISO
NISO
NIST
OSF
SAA
TAPPI

Identification of these organizations is proposed to be included, instead, in 15.3–1.6.

15:3–4.3 Image processing systems

No changes are proposed for this section.

15:3–4.4 System administration

No changes are proposed for this section.

15:3–4.5 Image storage and retrieval

No changes are proposed for this section.

15:3–4.6 Scanners and scanning

No changes are proposed for this section.

15:3–4.7 Operation and management of image processing systems

No changes are proposed for this section.

15:3–4.8 Security

No changes are proposed for this section.

15:3–4.9 Public access

No changes are proposed for this section.

15:3–4.10 Scanning legacy records; best evidence

No changes are proposed for this section.

15:3–4.11 Disaster recovery/contingency planning

No changes are proposed for this section.

15:3–5.1 Certification of imaging processing systems, purpose

No changes are proposed for this section.

15:3–5.2 Correspondence and inquiries

The Department of State proposes deleting this section.

15:3–5.3 Definitions

1. Section can be renumbered to 5.2.
2. The Department of State proposes deleting the references to "as amended and supplemented" as they may imply rulemaking outside of the rulemaking process.
3. The Department of State proposes deleting the reference to AIIM's and ARMA's addresses.

15:3–5.4 Responsibilities of the Division

Section can be renumbered to 5.3. No other changes proposed.

15:3–5.5 Responsibilities of government agencies

Section can be renumbered to 5.4. No other changes proposed.

15:4–5.6 Information access generally

Section can be renumbered to 5.5. No other changes proposed.

15:3–5.7 Notification of stakeholders; public notices

Section can be renumbered to 5.6. No other changes proposed.

15:3–6.1 Storage of public records; purpose

No changes are proposed for this section not covered under **Global Changes** above.

15:3–6.2 Definitions

1. The Department of State proposes deleting the "as amended and supplemented" reference as this may imply rulemaking outside of the rulemaking process.

2. The Department of State proposes deleting the following definitions, which have already been given in 15:3–1.2:

   "agency"
   "DARM"
   "Division of Archives and Records Management"
   "long-term storage"
   "public record"
   "records storage facility"
   "State Records Committee"

3. The Department of State proposes deleting all references to standards organizations and their address/telephone/website info as they are already identified in 15:3–1 .6 and this information is readily found online. This includes the following:

   AAIM
   ANSI
   ARMA
   ASTM
   DoD
   IEEE
   ISO
   NISO
   NIST
   SAA

4. The Department of State proposes deleting the addresses for the following organizations, which will remain identified in this section:

   FEMA
   FIPS
   ICC
   IEST
   NAPM
   NARA
   NEDCC
   NFPA
   NML
   UL

15:3–6.3 Record storage facility

1. In (b), relative to standards, the Department of State proposes deleting the references to "as amended and supplemented", the availability of copies, and the DARM address, for reasons noted above.

2. In (c)1i and (c)15i, the Department of State proposes that the references to IBC-2000 chapters are unnecessary.

15:3–6.4 Storage of microforms and other processed film

In (b), relative to standards, the Department of State proposes deleting the references to "as amended and supplemented", the availability of copies, and the DARM address, for reasons noted above.

15:3–6.5 Storage of magnetic media and other electronic records

1. In (b), relative to standards, the Department of State proposes deleting the references to "as amended and supplemented", the availability of copies, and the DARM address, for reasons noted above.

2. In (d)2i(4), relative to tape cartridges, the Department of State proposes deleting the words "as amended and supplemented, respectively" for reasons given above.

15:3–6.6 Exclusions

No changes are proposed for this section not covered under **Global Changes** above.

15:3–7 PARIS grants

The Department of State proposes deleting this subchapter. This grant program has been suspended.

15:3–8 Records Disaster Recovery and Triage grants

The Department of State proposes deleting this subchapter. This grant program has been suspended.

State of New Jersey
DEPARTMENT OF STATE
TRENTON NJ 08625

CHRIS CHRISTIE
Governor

LT. GOVERNOR KIM GUADAGNO
Secretary of State

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MEMORANDUM

To: State Records Committee

From: Joseph R. Klett, Executive Director
New Jersey State Archives
Division of Archives and Records Management
Department of State

Date: 15 July 2016

Subject: Review of *N.J.A.C.* 15:3

In response to Mr. Tyger's 7/6/2015 email request for comment on Division of Revenue and Enterprise Services' (DORES') proposed revision of *N.J.A.C.* 15:3, I offer the following on behalf of the State Archives staff and myself. It constitutes a report on the Department of State's (DOS's) constituent panel review of the chapter, along with DORES' and DOS's proposed revisions.

Background

In preparation for the readoption and revision process for *N.J.A.C.* 15:3, which expires in September 2016, in April 2016 DOS staff contacted constituent representatives of state and local government requesting their participation in the review of these rules. Eight professionals with varying perspectives in and on government and DOS's programs were selected, as follows:

Vincent T. Arrisi, State Registrar of Vital Statistics, N.J. Department of Health
Lori Buckelew, Senior Legislative Analyst, New Jersey State League of Municipalities
Matthew J. Coefer, Chief Records Custodian, Office of Record Access, N.J. Department of Environmental Protection
Argean T. P. Cook, Program Manager, Electronic Systems & Records Management – Capital Planning and Programs, New Jersey Transit
Michele Everly, Records Manager, Gloucester County Clerk's Office
Rita Fulginiti, Cape May County Clerk
Johanna Barbra Jones, Inspector General, N.J. Department of Transportation
Gary D. Saretzky, County Archivist, Monmouth County Clerk's Office

All eight individuals accepted the invitation to participate in the review. DOS considers the experience and expertise represented in the panel to be remarkable. It cuts across local government and the executive branch of state government. And it includes the perspectives of professionals with experience in traditional paper archives and records management as well as electronic records.

On 4/15/16, the reviewers were provided with the chapter as well as DORES' proposed revision of it as had been presented to DOS. On May 20, the reviewers were provided with a plan for three meetings to accomplish the review—the first to cover subchapters 15:3-1 and 15:3-2. DOS requested advance comments from the reviewers to be collated and distributed for the first meeting, which was scheduled for 6/21/16.

Meanwhile, in late April, DOS was asked by the Governor's Counsel's Office to propose a streamlining of *N.J.A.C.* 15:3 as part of a broad regulatory reform initiative. A draft revision was presented to the Governor's Office by DOS during the first week of May. The DOS revision accomplishes the following, in general terms:

- It deletes unnecessary and redundant definitions, and consolidates sections of definitions together in the first subchapter;
- It merges the definitions of "archival" and "permanent" records in accordance with SRC policy as memorialized in its 12 December 2013 minutes and as reflected in subsequent retention scheduling;
- It globally regularizes references to the Division of Archives and Records Management (DARM) and its Director;
- It cites statute in favor of reiterating statute whenever practical (which was specifically requested by the Governor's Office);
- It clarifies and makes explicit the SRC's existing ability to deem administrative actions to be no longer routine in anticipation of workflow changes now under consideration by DOS and DORES with regard to the approval process for the destruction of original permanent records that have been digitized;
- It identifies standards organizations in the first subchapter, eliminating later duplicate references to them as well as URLs and contact information that are subject to change if not already outdated;
- It eliminates the lengthy duplicate list of standards included in the first subchapter, leaving references to specific standards in their respective sections and contexts;
- It eliminates "as amended and supplemented" references to standards, as this is considered rulemaking outside the statutory process (also specifically requested by the Governor's Office);
- It clarifies information about the State Archives and the State Records Center and their respective purposes and programs; and
- It corrects typographical errors.

The Governor's Office approved DOS's proposed revisions during the first week of June, requesting additionally that section 15:3-1.1, "Scope and Purpose," be removed.

Panel Review Meeting #1, 21 June 2016

On 6/17/2016, DOS sent the eight reviewers listed above an agenda for the first panel meeting scheduled for 6/21. Written advance comments were received until 20 June, and included contributions in writing from four panelists. This information was collated into a detailed agenda

packet for distribution at the meeting. The packet was devised to facilitate discussion and analysis of subchapters *N.J.A.C.* 15:3-1 and 15:3-2. It quoted, for each section, the text of the rule or a synopsis of it, relevant statutory texts, and summarized the changes proposed by DOS and/or DORES. It also presented the following questions for discussion:

- Does the regulation appropriately reflect the intent of the statute?
- Is the regulation sufficient, or is it over-regulatory?
- Is the standard appropriate (if applicable)?
- Other issues/concerns?

The advanced comments from the reviewers were quoted (without attribution) under the relevant question, to serve as the starting point for discussion.

On Tuesday, June 21st, the review panel convened at 1:00 p.m. in the State Archives' conference room at 225 West State Street. All eight reviewers participated, one (County Clerk Fulginiti) by telephone. Additionally, the following staff members of the Department of State participated:

David G. Vitali, Esq., Assistant Chief of Staff
Joseph R. Klett, Executive Director, State Archives
Ellen R. Callahan, Collection Manager/Supervising Archivist, State Archives
Richard B. Everett, Legislative Liaison

The role of the DOS staff entailed: moving the discussion forward through the agenda; answering technical questions about DOS programs, related law, and the rule-adoption process; and explaining workflow under the Intragovernmental Agreement of the departments of State and Treasury currently in effect.

In addition to hardcopy of the detailed agenda packet, the group was provided with copies of the following documents:

- The Intragovernmental Agreement between the departments of State and Treasury placing oversight of DARM's "records management services" with DORES;
- SRC minutes of 12 December 2013 memorializing that "archival records" and "permanent records" are ultimately one and the same;
- The SRC's proposal for an electronic archives infrastructure to be overseen by and staffed in the Department of State, as approved by the SRC on 21 Feb. 2013 (with relevant parts of the corresponding SRC minutes);

Copies of DOS's proposed revision, approved by the Governor's Office, and also a subsequent proposed revision from DORES, were addressed in and incorporated into the agenda packet and made available at the meeting for reference. Staff explained that they would take detailed notes of the meeting's discussion, that the same would be summarized for the panelists' collective review and for presentation to DORES and the SRC.

The panel completed discussions through *N.J.A.C.* 15:3-2.1. At about 4:00 p.m., the consensus was to table the remaining items on the agenda for the next meeting.

What follows is the section-by-section analysis from DOS's constituent review panel's first meeting. Comments are noted, or quoted, without attribution, referring only to "panelist(s)" or "reviewer(s)" and "staff." Notes on the proceedings were kept by Ellen Callahan and Joseph Klett.

N.J.A.C. 15:3-1.1, Purpose and Scope

Summary of proposed changes: The Governor's Office requested deletion of this section. DORES' proposed revision replaces DARM with DORES "pursuant to the Memorandum of Understanding between the Department of State and the Department of the Treasury."

Comments and discussion: The following advance comments were included in the detailed agenda packet for this section in answer to the question "Is the regulation sufficient, or is it over-regulatory?":

> With regard to DORES' proposed revision of (a): "Responsibility for establishing the framework for public records administration in the state should NOT be vested in a records management agency administratively separated from the state's archives agency. Supreme oversight of public records administration must be vested in the state's archival agency, supervising and guiding the records management program, to ensure that adequate protections are in place to preserve essential evidence of government policy-making and operations, and accountability of government to citizens and taxpayers."
>
> Regarding DORES' proposed revision of (b), which defines the scope of the chapter, one reviewer noted that there are non-governmental organizations which act as agents of government, to whom administrative functions are delegated with clear authority, and whose records are subject to the Open Public Records Act as "public records."

The in-person discussion is summarized as follows:

Staff explained that the Governor's Office had requested that this section be deleted in its entirety. Relative to DORES' proposed revision, staff directed the reviewers' attention to the copies of the Intragovernmental Agreement that had been distributed. Archives staff explained what "records management services" means from their perspective: i.e., that this does not include the archival review process or the authority to approve destruction requests for original records scheduled as permanent or subject to archival review after they have been digitized.

A general discussion then took place with regard to the advisability/feasibility of: a) replacing any references to DARM with DORES given the existing statutory underpinnings of *N.J.A.C. 15:3*; and b) basing rule changes on an intragovernmental agreement that is temporary by nature, with an expiration date of 30 June 2018, and a clause allowing it to be revoked by either party with 45 days' notice. Several reviewers expressed concern that the Attorney General's and Governor's office would likely not support this approach.

Discussion continued relative to the preservation of born-digital and other electronic records. While reviewers expressed the need and intention of their respective agencies to move forward using electronic record systems, several pointed out that much of the software, formats, and technologies currently in use have not and cannot be tested over the long term.

One panelist expressed frustration with the difficulty he/she had in receiving assistance from the state with regard to which electronic recordkeeping system his/her agency should use. Others expressed concerns about the potential for DORES to dictate technological choices that might impede the progress and workflow of their agencies. Staff stated that the State Archives aspires to work with agencies to determine the best means to preserve their electronic files as has been done in many

model state archives programs in the U.S.; nonetheless, certain file formats present migration challenges. Staff further indicated that DORES presumably has similar goals to adapt policies and standards as technologies evolve so as not to impede processes and progress, but to find long-terms solutions to protect record content and preserve the integrity of files.

There was considerable discussion regarding the differences between archivists and IT professionals, their goals, responsibilities, and ethical frameworks. Staff noted that archivists are not just keepers of historical documents, but that government archivists in particular are—perhaps most importantly—focused on protecting public records of enduring value that are being produced today for the use of citizens in the future. It was further noted that the need for a centralized paper archives program expressed by the public and the Legislature a century ago is similar to the need, today, for a centralized electronic archives program. The former led to the creation of the Public Records Office, forerunner of the State's centralized archives and records management programs. Only a few states now have no infrastructure in place for their state archives to accession/ingest electronic files. Staff noted further that the State's Office of Information Technology (OIT) supports the establishment of an electronic records program in the State Archives and also that OIT asserted in meetings with DARM management that the State should not look to IT professionals to be records managers.

It was also noted that the State Archivist is recognized as the default Custodian of Records under the Open Public Records Act (OPRA) for electronic files of past governors' offices, even though the servers holding any such surviving records are owned and under the oversight of OIT. When an OPRA request comes in for electronic documents of past governors' offices, the State Archivist is instructed to distill the request into keywords, submit it to the current Office of the Governor's staff, who will work with OIT to determine whether the State owns responsive documents. The State Archivist then conveys the response to the requestor. He has no way to personally ensure either a thorough search of electronic documents, the perpetual retention of permanent items, or the systematic destruction of documents that are designated as non-permanent.

Staff directed the reviewers' attention to the State Records Committee's February 2013 proposal for an electronic archives infrastructure. The document envisions funding two professional archivist positions to manage the program under the supervision of the State Archivist in the Department of State. Staff further noted that many other states have tested programs which New Jersey can learn from.

There was consensus among the reviewers that oversight of a centralized electronic archives program is appropriately placed in the State Archives, in the Department of State, as proposed by the SRC, with support in its development from the State's IT functions.

N.J.A.C. 15:3-1.2, Definitions – general

The following specific definitions were set aside as separate agenda items for discussion: "Archival records," "Director," "Division," "Long-term record(s)," "Permanent records," "State Archives," and "State Records Committee."

Summary of proposed changes: Relative to the remainder of the definitions section, DOS's proposed revision deletes definitions of unused and redundant terms, corrects the alphabetical order of terms, and removes the reference to external standards as the source of definitions. The standards cited may

be outdated. Regardless, the citation was considered by DOS to be superfluous since specific definitions pertinent to *N.J.A.C.* 15:3 were gleaned or adapted from these documents as appropriate.

Comments and discussion: In one reviewer's advance comments, he/she asked about the definition of "Local Government" and whether it includes schools and state colleges. Staff noted that the current definition includes school districts, institutions, boards, and subordinate offices of all levels of government. Thus the definition as it stands would encompass schools and state colleges.

In one reviewer's advance comments, he/she questioned the deletion in DORES' proposed revision of the second definition of Records Center. Staff noted that in DOS's proposed revision the second definition is also deleted so as not to confuse the State's facility with a generic definition. However, DOS's proposed revision also clarifies the definition of "State Records Storage Center" to show that it is a facility established and maintained by the Division.

N.J.A.C. 15:3-1.2, Definitions – "Archival Records"

Summary of proposed changes: DOS's proposed revision cross-references this term to a single definition for both "Permanent Record(s)" and "Archival Record(s)." DORES' proposed revision seeks to distinguish "archival record(s)" from "permanent record(s)." DORES' introductory summary notes that this is done to "alleviate administrative compliance burdens associated with overly broad classifications of archival records."

Comments and discussion: Staff noted that DOS's proposed revision is consistent with policy of the State Records Committee as memorialized in its minutes of 12 December 2013 (copies of which had been distributed to the group). This establishes that permanent and archival records should not be distinguished from each other in retention schedules. Scheduling that has taken place since then has reflected this conclusion of the SRC, i.e., that all records deemed to be of permanent value to the State and the public are or should be ultimately destined for an archival facility rather than placed in separate archival silos in each agency. This applies to both hardcopy documents and electronic records.

One reviewer asked whether the term "Permanent Records" should be deleted since it is not used to mean records that are to be retained permanently *in the agency*. It was noted that retention schedules are now developed to show a period of years of retention in agency and/or records storage, with the final disposition as "archives." Staff suggested that both terms, even if equivalent, should continue to be cross-referenced since they are both found in past retention schedules, standards, statutes, State Archives and DORES websites and documents, and the professional literature.

N.J.A.C. 15:3-1.2, Definitions – "Director"

Summary of proposed changes: DOS's proposed revision makes no substantive change to the definition. DORES' proposed revision substitutes the head of DARM with the head of DORES, stating that by virtue of the 2014 "Interagency Agreement," DORES will administer: "all aspects of the State's records management program. The program addresses all records management functions covered under *N.J.S.A.* 47:3 et seq., including records inventory, appraisal, retention scheduling, disposition request processing, records center operations, microfilming, and all aspects of electronic

imaging and electronic records system management." DORES's proposed revision also replaces the head of DARM as Secretary of the SRC with the head of DORES.

Comments and discussion: The following advance comment was placed under the question "Does the regulation appropriately reflect the intent of the statute?":

> Removing reference to the Governor's 1983 Reorganization Plan from the code "does not change the framework of the law."

The following advance comment was placed under the question "Is the regulation sufficient, or is it over-regulatory?":

> "'Director' should mean the head of the state's archival agency, not the head of the records management agency, unless the two are united as one administrative unit. The Secretary of the State Records Committee should be the head of the State Archives."

The in-person discussion centered on whether the changes proposed by DORES, which are not in line with statute, could or should be made based on the Intragovernmental Agreement. This led to fundamental questions regarding the separation of the records management and archives functions of state government. The discussion extended to both the definition of "Director" and the definition of "Division."

Several panelists stated that the integrated program had worked well and continued to improve under DARM. One panelist commented that the separation has led to confusion among agencies as to whom to turn to for technical advice. Another panelist specifically indicated that he/she supported the statement expressed in another's advance comment, that the Secretary of the SRC should be the head of the State Archives.

Staff explained that the current pro-temps secretaryship of the SRC resulted from a vacancy in the DARM Director position in late 2012.

N.J.A.C. 15:3-1.2, Definitions – "Division"

Summary of proposed changes: DOS's proposed revision makes no change to the definition. DORES' proposed revision replaces DARM with DORES, deletes references to *N.J.S.A.* 47 that define DARM's responsibilities as carried out by *N.J.A.C.* 15:3, as well as references in *N.J.S.A.* 47 that establish DARM, in the Department of State, as the successor of the Public Records Office and the State's Library's Bureau of Archives and History. DORES' revision names DORES, instead, as the successor of these former archival/records-administration agencies.

Comments and discussion: The following advance comment was placed under the question "Does the regulation appropriately reflect the intent of the statute?":

> "Removing [reference to] statute from the code does not change the framework of the law."

The following advance comment by another panelist was placed under the question "Is the regulation sufficient, or is it over-regulatory?":

> "Responsibility for establishing the framework for public records administration in the state should NOT be vested in a records management agency administratively separated from the state's archives agency. Supreme oversight of public records administration must be vested in the state's archival agency, supervising and guiding the records management

> program, to ensure that adequate protections are in place to preserve essential evidence of government policy-making and operations, and accountability of government to citizens and taxpayers."

Yet another reviewer made advance comment, relative to the DORES' proposed revision, that there were some references to the "Division" that were unclear as to whether the responsibility was to be taken over by DORES or to remain with DARM.

Relative to the in-person discussion, see above under the definition of "Director." Both definitions were addressed together as has been noted and summarized.

N.J.A.C. 15:3-1.2, Definitions – "Long-term record(s)"

Summary of proposed changes: DOS's proposed revision makes no change to the definition. DORES' proposed revision changes the definition of long-term records from those requiring retention of 10 years or more, to those requiring retention of 20 years or more.

Comments and discussion: The following advance comment was placed under the question "Is the regulation sufficient, or is it over-regulatory?":

> "Changing the definition of long-term record to 20 years should occur only with an affirmative recommendation from the head of the state archival agency and vote of the State Records Committee." The reviewer made similar comments regarding the definitions of medium and short-term records.

Another reviewer, in his/her advance comments, asked what DORES' rationale is for changing the definition from 10 to 20 years.

The brief discussion in person concluded with consensus that the question of the rationale for DORES' proposed change should be addressed to DORES since DOS staff were not aware of the specific reasons and could only speculate that may have to do with requirements for microfilming long-term records.

N.J.A.C. 15:3-1.2, Definitions – "Permanent Record"

Summary of proposed changes: DOS's proposed revision merges the definitions of "permanent record(s)" and "archival record(s)" based on policy of the State Records Committee as memorialized in its 12 December 2013 minutes and as reflected in retention scheduling since that time. DORES' proposed revision redefines "permanent record(s)" so as to further differentiate them from "archival record(s)."

Comments and discussion: One panelist, in his/her advance comments, asked what the rationale was in DORES' proposed revision for replacing the term "permanent" or "permanent or archival" with the term "archival" in several places.

In-person discussion of this definition was encompassed by the discussion of the definition of "archival record," as noted and summarized above.

N.J.A.C. 15:3-1.2, Definitions – "State Archives"

Summary of proposed changes: DOS's proposed revision clarifies the wording and statutory references in the first paragraph. DORES' proposed revision eliminates all references to the State Archives' statutory authority and deletes references to DARM and the State Archives as being successor to the Public Records Office. DORES' proposed revision also removes the language indicating that the State Archives will determine what records have "permanent value" and preserve the same.

Comments and discussion: The following advance comments, relative to DORES' proposed revision, were placed under the question "Does the regulation appropriately reflect the intent of the statute?":

> "Removing [references to] statute from the code does not change the framework of the law."
>
> "Since none of the statutes cited in this provision have been repealed, and all of them refer to the statutory functions of the State Archives, there is no reason to delete this provision."
>
> "The Public Records Office is the predecessor agency of DARM."

The following advance comment, relative to DORES' proposed deletion of the reference to the State Archives determining what records are of permanent value and preserving the same, was placed under the question "Is the regulation sufficient, or is it over-regulatory?":

> "This phrase should be restored. The State Archives, with the State Records Committee, should determine which records are of permanent value to the state."

The in-person discussion is summarized as follows:

The reviewers expressed concern about DORES' proposed changes to the definition and mission of the State Archives, the deletion of references to its statutory authority, and the removal of references to DARM and the State Archives being the legal successor of the Public Records Office.

Staff commented that distinguishing "permanent" records from "archival" records is not consistent with statute or SRC policy, or the tradition role and mission of the State Archives within state government.

N.J.A.C. 15:3-1.2, Definitions – "State Records Committee"

Summary of proposed changes: DOS's proposed revision simplifies this definition by citing statute with regard to the definition and composition of the SRC. DORES' proposed revision replaces the Director of DARM as the Secretary of the SRC with the Director of DORES. The version of DORES' proposed revision circulated to the review panel in advance also eliminates representation from the Department of State altogether from the composition of the SRC.

[**Note:** DOS staff did not know that DORES' subsequent proposed revision, which had been received only in hardcopy by DOS by the time of the 6/21 meeting and so was made available in that format only at the meeting, changes the composition of the SRC *as defined here* to include the Secretary of State in place of the Director of DARM. Thus the advance comments received and in-person discussion were based on the earlier version. Regardless, the comments and discussion relative to DORES' proposed removal of State Archives representation from the SRC are still relevant.]

Comments and discussion: The following advance comment was placed under the question "Does the regulation appropriately reflect the intent of the statute?":

> "This means that the Treasury would have 2 representatives and votes. Given the Archives' expertise and statutory role in the preservation of public records, Archives should be on the SRC."
>
> A reviewer asked who the current representatives for state and local agencies are.

The following advance comment was placed under the question "Is the regulation sufficient, or is it over-regulatory?":

> "The head of the State Archives should be a permanent member of the SRC, not the head of the records management agency, unless the two functions are reunited. DORES' propose revision would give Treasury double the representation of any remaining constituent members."
>
> A reviewer expressed "grave concerns" about the elimination of the State Archives' role on the SRC.

The in-person discussion is summarized as follows:

Apprehension and opposition to DORES' proposed removal of State Archives representation from the SRC was expressed explicitly by several reviewers. It was noted that this was in contradiction of existing statute, which explicitly names the Director of DARM (as successor to the head of the former Bureau of Archives and History), or his/her designee, as a member of the Committee. The consensus was that the State Archives plays a vital role in identifying and protecting public records of historical and permanent value, and that this role should not be diminished.

Staff noted that the addition of SRC members representing state and local agencies was sought by DARM, unsuccessfully, several years ago in the form of statutory change. The administrative code currently is not consistent with statute in this regard. DOS's proposed simplification, by directly citing statute, corrects this problem.

N.J.A.C. 15:3-1.3, Systems of recording …

Summary of proposed changes: The DOS proposed revision deletes reiteration of statute in favor of reference to *N.J.S.A.* 47:1-12 and 47:1-13. DORES' proposed revision replaces DARM with DORES and removes references to *N.J.S.A.* 47:3-20, 47:1-12, and 47:1A et seq. (the Open Public Records Act).

Comments and discussion: The following advance comment regarding DORES' proposed revision of (c), which deletes reference to P.L. 1994, c. 140, § 6 (*N.J.S.A.* 47:1-12), was place under the question "Does the regulation appropriate reflect the intent of the statute?":

> "This has not been repealed. Why is it deleted?"

The following advance comment with regard to DORES' proposed revision of (a), replacing DARM with DORES, was placed under the question "Is the regulation sufficient, or is it over-regulatory?":

> "The State Archives with the SRC, not the records management agency, should promulgate rules for public records administration, unless the two functions are reunited."

The in-person discussion reverted, again, to the issue DORES' proposed revision being in conflict with statute. See the various discussions summarized above under *N.J.S.A.* 15:3-1.1 and 15:3-1.2 (definitions of "Director," "Division," "State Archives," and "State Records Committee"). The panelists were also in consensus that "safeguarding the State's documentary heritage" is the primary statutory mission of the State Archives, not DORES.

<u>*N.J.A.C.* 15:3-1.4, Examination and transfer of public records ...</u>

Summary of proposed changes: DOS's proposed revision deletes the reiteration of statutory verbiage and instead refers to *N.J.S.A.* 47:2-4 through 2-8. DORES' proposed revision replaces DARM with DORES in section (a), relative to access to examine public records. It also removes references to *N.J.S.A.* 47:3-20 and 47:1-12, and replaces the "Division" with "State Archives" in (c) through (e).

Comments and discussion: The following advance comment, relative to access to examining public records, was placed under the question "Is the regulation sufficient, or is it over-regulatory?":

> "This is a State Archives function, NOT a records management function. At minimum, both Record Management and Archives should have the ability."

The in-person discussion is summarized as follows:

The question was raised as to whether, even under the Intragovernmental Agreement, access to examination of public records was a records management need in addition to being a State Archives need. Staff reiterated that while records analysts are concerned with the administrative lifecycle of records, government archivists are trained to determine what records have permanent value to the government and citizens, and are charged with ensuring the preservation of the same in the State Archives and in state and local agencies' facilities.

One panelist stated that there should be regulations that specify what records should be readily accessible to the public, e.g., via the Internet. This might reduce the burden on both citizens and records custodians under the Open Public Records Act.

<u>*N.J.A.C.* 15:3-1.5, Responsibilities of public agencies ...</u>

Summary of proposed changes: DOS's proposed revision makes no substantive changes in this section. DORES' proposed revision replaces DARM with DORES, placing DORES in charge of "surveys of historical and other public records" as well as administering the State Historical Records Advisory Board. DORES also proposes deletion of (b)3 relative to public agencies petitioning the SRC for certification of image processing systems.

Comments and discussion: The following advance comment, regarding DORES' proposed deletion of (b)3, was placed under the question "Does the regulation appropriately reflect the intent of the statute?":

> "Deletion of this provision implies that the state will abandon the certification of imaging systems required by P.L. 1994, c. 140, which has not been repealed."

The following advance comments were placed under the question "Is the regulation sufficient, or is it over-regulatory?":

> Regarding DORES' proposed revision of (a): "The enumerated responsibilities and duties of public agencies should be jointly overseen by the state archives and records management agency, unless the two are reunited."
>
> Regarding DORES' proposed revision of (a)4 [which becomes 5]: "Matters pertaining to records retention, and related systems should remain reportable to the state archives, NOT the records management agency, unless the two functions are reunited."

The in-person discussion is summarized as follows:

Staff noted that federal law places each State Historical Records Advisory Board explicitly within the state's *archival* agency. Thus DORES' proposed revision of that section is not only inconsistent with New Jersey statute, but also federal requirements. Again, the discussion reverted back to the issue of DORES' proposed revision being in conflict with statute. See the various discussions summarized above under *N.J.A.C.* 15:3-1.1 and 15:3-1.2 (definitions of "Director," "Division," "State Archives," and "State Records Committee").

N.J.A.C. 15:3-1.6, Standards Referenced

Summary of proposed changes: DOS's proposed revision eliminates the lengthy and redundant list of standards, since they are all referred to specifically in the sections to which they relate. Instead, DOS's proposed revision references the relevant *standards organizations* here. DORES' proposed revision eliminates this section.

Comments and discussion: Staff explained that DOS intends to review the usefulness and currency of the specific standards with DORES and the SRC in the context of the sections of *N.J.A.C.* 15:3 to which they specifically relate.

N.J.A.C. 15:3-2.1, Responsibilities and disposition of public records: (a) [responsibilities of agencies]

Summary of proposed changes: DOS's proposed revision simplifies the section, citing *N.J.S.A.* 47:3-15 through 32 relative to authorization for destruction of public records and the establishment and purpose of the State Records Committee. DORES' proposed revision makes no change to this section.

Comments and discussion: There were no advance comments relative to this section. The panel agreed that there was no need for discussion.

N.J.A.C. 15:3-2.1, Responsibilities and disposition of public records: (b) [composition and purpose of the State Records Committee]

Summary of proposed changes: DOS's proposed revision adds language in (b)5 to explicitly allow for the SRC to deem certain actions no longer routine or administrative. DORES' proposed revision removes the Director of DARM as the Secretary of the SRC, designating the Director of DORES

instead. It eliminates DOS from any representation on the SRC. It also removes certification of image processing systems by the SRC. It also deletes references to *N.J.S.A.* 47:3-20 and makes DORES, not the State Archives, the "permanent" keeper of SRC minutes and records.

Comments and discussion: The following advance comments were placed under the question "Does the regulation appropriately reflect the intent of the statute?":

> Regarding the composition of the SRC in (b), first paragraph, one reviewer suggested adding a representative for state agencies and another for local agencies to the SRC. Another reviewer expressed concerns about the Archives not having ex-officio representation on the SRC.

> Regarding DORES' proposed deletion of reference to certifying imaging systems in (e)2: "Deletion of this provision implies that the state will abandon the certification of imaging systems required by P.L. 1994, c. 140, which has not been repealed." Another reviewer notes that "One of the features of imaging/registered systems is the ability to prematurely dispose of public records. For this reason, the SRC's review of these systems is imperative."

The following advance comments were placed under the question "Is the regulation sufficient, or is it over-regulatory?":

> Regarding DORES' proposed revision of (b), first paragraph: "The head of the state archives, NOT the head of the records management agency, should be a permanent member of the SRC, unless the two functions are reunited."

> Regarding DORES' proposed revision of (b)6: "The state archives, NOT the records management agency, should be responsible for administrative actions previously authorized by the SRC." Another reviewer notes that since most registrations of image processing systems are new items, they have not been previously authorized by the Committee so these registrations should not be considered routine.

> Regarding DORES' proposed revision of (b)7: "'Director' should mean the head of the state's archival agency, NOT the head of the records management agency, unless the two are united as one administrative unit. The Secretary of the State Records Committee should be the head of the state archives. Similarly, the SRC record-keeping function should be vested with the state archives." Another reviewer also stated that the SRC minutes should eventually be transferred to the State Archives.

The in-person discussion is summarized as follows:

Staff noted that some language in this section may be reiterative of the Open Public Meetings Act, and could possibly be simplified. Relative to the additional state and local agency representatives on the SRC mentioned in (b), first paragraph, see the discussion of *N.J.A.C.* 15:3-1.2, Definitions – "State Records Committee" above, which notes that statute does not provide for this regardless of the current wording of the administrative code.

Once again discussion led to the issue of DORES' proposed changes being in conflict with statute. See the various discussions summarized above under *N.J.A.C.* 15:3-1.1 and 15:3-1.2 (definitions of "Director," "Division," "State Archives," and "State Records Committee"). In addition, unanimous opposition was expressed with regard to DORES' proposal, in the first paragraph of (b), that DARM/State Archives representation be eliminated from the SRC and that the Department of the Treasury have *two* representatives: one designated by the State Treasurer, and the other being the Director of DORES ex-officio. See also the discussion of this issue under *N.J.A.C.* 15:3-1.2, Definitions - "State Records Committee," summarized above. The reviewers were in consensus that the State Archives has and should continue to have an essential role in identifying and protecting public records and determining what records should be retained permanently.

Relative to DOS's proposed change in the language of (b)5 regarding administrative actions, staff explained that this is in the context of, and in line with, current workflow discussions between the State Archives and DORES pertaining to the approval of destruction requests for original permanent records that have been digitized. Archives and DORES will likely recommend that certain categories of approvals be made directly by the SRC. Thus not all destruction request approvals would be routine administrative actions.

It was also noted that the list of what is considered routine actions relegated to agency staff was different in the past than it is today, and it will be different in the future. The current separation of the State Archives and Records Management programs in two different departments necessitates the SRC having greater flexibility in this area in order to respond to changes in workflow and variant perspectives. This provides a greater level of checks and balances and less chance of loss of historical government information. For example, current requests to destroy permanent/archival records that have neither paper nor microfilm backup cannot be considered "routine" at this time.

Several reviewers brought up the issues of image processing system certifications, expressing concern that the SRC itself was no longer analyzing system requirements on a case by case basis and reviewing what human-readable backup is available for specific series of permanent/archival and long-term records. See also the discussion of imaging systems certification under *N.J.A.C.* 3-1.5 above.

There was consensus that the additional language proposed by DOS was appropriate and necessary.

<u>*N.J.A.C.* 15:3-2.1, Responsibilities and disposition of public records: (c)</u> [certifications, etc.]

Summary of proposed changes: DOS's proposed revision makes no change in this section. DORES' proposed revision deletes references to *N.J.S.A.* 47 and places the following with DORES: responsibility for creation of records retention schedules; review and approval of destruction requests; and responsibility for "guidelines for the creation, management, and preservation of public records for State and local government agencies" with the approval of the SRC. It does not provide for the inclusion of the State Archives explicitly in these processes.

Comments and discussion: The following advance comments were placed under the question "Is the regulation sufficient, or is it over-regulatory?":

> One reviewer suggested that throughout this section, all references to the "Division" should be changed to refer to the State Archives.
>
> Another reviewer expressed concern about the "abandonment of imaging systems certification."

The in-person discussion is summarized as follows:

Again, the issue of DORES' proposed changes being inconsistent with statute was raised. See the various discussions summarized above under *N.J.A.C.* 15:3-1.1 and 15:3-1.2 (definitions of "Director," "Division," "State Archives," and "State Records Committee"). See also prior discussion of imaging system certification under *N.J.A.C.* 15:3-1.5 and 15:3-2.1(c) above.

Panelists familiar with the development of retention schedules commented that under DARM, the process appeared to involve staff more familiar with principles of both archives and records

management. Currently, few retention schedules are being presented and some have been withdrawn at SRC meetings due to a lack of consensus. Concern was expressed about the records management experience of current DORES staff.

One panelist commented that agencies rely on retention schedules for legal purposes and that the retention scheduling process seems to have broken down. He/she further suggested that a higher level of administrative commitment is needed to help the State Archives, DORES, and the State's IT offices review and reconcile the need for proper disposition of paper and born-digital records with preservation issues. Some panelists expressed concern that the current image processing system registration process results in little guidance with regard to developing compliant and trustworthy electronic records systems.

Adjournment

At about 4:00 p.m., the group resolved to adjourn for the day and table the items remaining on the agenda for the next meeting.

STATE OF NEW JERSEY
STATE RECORDS COMMITTEE
PO Box 661, Trenton, NJ, 08625-0661 609.530.3200
www.treas.state.nj.us

MINUTES
STATE RECORDS COMMITTEE
February 21, 2013

Michael J. Tyger, Secretary, called the 402nd meeting of the State Records Committee to order at 10:05 a.m. on the above date. He stated that notice of the meeting had been posted in the Secretary of State's Office and published in the state's daily newspapers in conformance with the requirements of the Open Public Meetings Act.

ATTENDANCE:

SRC:
Attorney General, Robert Strang, designee
Division of Local Government Services, Erin Mallon Knoedler, designee
State Auditor, William Robinson, designee
State Treasurer, Michael Tyger, designee
State Archives, Joseph Klett, designee

Staff:
James J. Fruscione, Director, Division of Revenue and Enterprise Services
Robert Benco, Chief of Operations, Records Management Services
John Berry, Records Analyst I, Records Management Services
Argean Cook, Records Analyst II, Imaging Certification Unit, Records Management Services
Kathryn Cornell, Program Technician, Records Management Services
Robert Fabio, Administrative Analyst I, Records Management Services
Maureen Hedden, Administrative Analyst II, Records Management Services
Barbara Goszka, Acting Deputy Manager for Records Management and Imaging Services, Records Management Services
Karl J. Niederer, Division of Revenue and Enterprise Services
Karen A. Perry, Records Analyst I, Records Management Services
Vilirie D. Perry, Records Analyst I, Records Management Services
Howard Schwartz, Supervisor of Records Management Services
Ellen Callahan, NJ Archives, Department of State

Other:
Dave Brice, Gloucester County, IT
Sal Coppola, Hudson County Enterprise
Ed Eastman, New Jersey Land Title Association
Michele Everly, CARMA/COANJ
David Ewan, New Jersey Land Title Association
Dan Freed, Sussex County
Paula Sollami Covello, Mercer County Clerk / COANJ
Torey L. King, Lauren M. Wiley, Mercer County Clerk's Office

Joanne McKinley, Access/CNA Services

MINUTES:

Minutes from the previous SRC Meeting of January 24, 2013 will be reviewed at the next SRC meeting.

I. ADMINISTRATIVE ACTIONS:

A. **Announcement of Approval of Destruction Authorization:** None
B. **Records Management:** None
C. **Image Processing System Certification:** None

II. IMAGING CERTIFICATION: None

III. OLD BUSINESS

A. **Image Certifications:** None
B. **Retention Schedules:** None
C. **Request and Authorization for Records Disposal:** None
D. **PARIS Grants and Records DIRECT Programs:** None
E. **Other:**
1. **Draft Proposal for an Electronic Archives and Infrastructure for the State of New**

Joseph Klett, NJ State Archives presented a Draft Proposal for an Electronic Archives Infrastructure for the State of New Jersey for the Committee's review. Mr. Klett stated that the Department of the Treasury will build the platform. Also, a new unit has to be created in the State Archives.

During the review, Robert Strang asked Michael Tyger if he was okay with "IV. Fiscal Impact". Mr. Tyger responded that he had reviewed the numbers and for the purposes of this position paper the figures were a good ball park number. Mr. Tyger also said he believed that given the cost estimate relative to the risk of not addressing the issue, he felt it was a worthwhile investment.

Mr. Strang also noted that the electronic archives should be designed with search capability and the means to access and retrieve records for legal requirements and research will be very important.

Erin Mallon Knoedler, Local Government Services, asked "what is the *next* step"? Mr. Tyger said he thought endorsement from the SRC of the proposal was the logical next step, then we could look to move forward with budget (OMB), Technical, OIT, OTT and Department of State. Ms. Knoedler said she would like to see status reports and it was agreed that those would be made regularly to the SRC. The Committee is in agreement to endorse the concept and the next step is to find out how it can be accomplished.

Upon motion, seconded, the Committee voted to approve endorsing the concept for an Electronic Archives Infrastructure five (5) yes, none (0) no, and none (0) abstentions.

Draft Proposal for an Electronic Archives Infrastructure for the State of New Jersey

prepared for the State Records Committee
by staff of the New Jersey State Archives, Department of State
February 2013

At its 13 December 2012 meeting, the State Records Committee (SRC) formally requested that State Archives staff draft a proposal for an electronic archive initiative for state government and submit the same to the Committee for consideration. By email communication from Michael Tyger, Chair/Secretary of the SRC, to Joseph Klett, Chief of Archives, Mr. Tyger specifically requested that the proposal include "background on the importance of such an archive, how it would be managed by State Archives, types of records that would be housed there, methods of access, etc."

I. Statement of Need and Justification

The business of government is now transacted, in very large part, electronically. Communication and policy making are memorialized through digital-born word-processing files and communications, spreadsheets, pdfs, graphic files and databases. The documentary products of public agencies include vast Internet-based or Internet-oriented resources.

This business model, which includes e-commerce and record-generating online services, inherently requires proactive management of electronic files throughout their lifecycle as compared to the more passive management of paper records. Electronic files are far more vulnerable to accidental loss, or loss as a result of inaction (i.e., failure to migrate, archive or back-up data). While many such losses are not publicized, the following case from the State of Alaska received press coverage due to its sudden and direct impact on taxpayers.[1] In July 2006, a computer technician reformatting a disk drive at the Alaska Division of Revenue, while doing routine maintenance work, accidentally deleted dividend applicant files for a $38 billion oil-funded account. He also mistakenly reformatted the backup drive. Worse yet, the backup tapes were found to be unreadable. After a period of weeks during which 70 employees worked overtime and through the weekends, at a cost of over $220,000, 300 boxes of original paper records (which fortunately had not yet been destroyed) were re-scanned and the state was able to proceed with the payments.

The fact that historical data is increasingly in jeopardy is recognized nationally and internationally. In 2005, *MIT Technology Review* published an article regarding the loss of historical military records at the federal level.[2] The author, David Talbot, lamented:

> ... today's history is born digital and dies young. Many observers have noted this, but perhaps none more eloquently than a U.S. Air Force historian named Eduard Mark. In a 2003 posting to a Michigan State University discussion group frequented by fellow historians, he wrote: "It will be impossible to write ... recent diplomatic and military history as we have written about World War II and the early Cold War. Too many records are gone ... History as we have known it is dying, and with it the public accountability of government and rational public administration." Take the 1989 U.S. invasion of Panama, in which U.S. forces removed Manuel Noriega and 23 troops lost their lives,

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1 Ann Sutton, "Oops! Tech Error Wipes Out Alaska Info," Associated Press, 20 March 2007.
2 David Talbot, "The Fading Memory of the State," MIT Technology Review, July 2005.

> along with at least 200 Panamanian fighters and 300 civilians. Mark wrote (and recently stood by his comments) that he could not secure many basic records of the invasion, because a number were electronic and had not been kept. "The federal system for maintaining records has in many agencies – indeed in every agency with which I am familiar – collapsed utterly," Mark wrote.

Eight years later, the problem is critical as we rely on computers to do business more than ever. Even five years ago, the National Association of State Chief Information Officers reported that 97% of recorded information was then created electronically.[3] Professor Ross Harvey of Simmons College explains why the creation of electronic archives infrastructures is a matter of urgency.[4] In comparison to traditional paper records, electronic files are:

> bound to varying degrees to the specific application packages (or hardware) that were used to create or manage them. They are prone to corruption. They are easily misidentified. They are generally poorly described or annotated ... Where they do have sufficient ancillary data, these data are frequently time constrained.

Harvey goes on to list the many threats to digital continuity, including data deterioration, hardware and software obsolescence, equipment failure, natural disasters (e.g., power surges/losses), lack of clear responsibility for file preservation, loss of encoding for relational data, etc.

In recent years in New Jersey, even in the context of hurricanes Irene and Sandy, many such losses have come to the attention of the State Records Committee, to OPRA custodians, and the historical community. Such losses undermine the accountability and transparency of government agencies as well as the retention of documentary evidence needed to protect the interests of both the State and its citizens. There is little doubt that New Jersey governments, collectively, lose some part of their legally required historical record every day.

Of course, under New Jersey law certain government documents are required to be kept permanently. *N.J.S.* 47:3-16 defines "public records" generally as:

> any paper, written or printed book, document or drawing, map or plan, photograph, microfilm, sound-recording or similar device, or any copy thereof that has been made or is required by law to be received for filing, indexing, or reproducing by any officer, commission, agency or authority of the State or of any political subdivision thereof, including subordinate boards thereof, or that has been received by any such officer ... in connection with the transaction of public business and has been retained by such recipient or its successor as evidence of its activities or because of the information contained therein.

The SRC has clarified that public records as defined by law include all *digital-born* documents of public agencies. All retention schedules promulgated by the Committee include the following standard language:

> **Management of Electronic Records.** This records retention schedule includes records series which are maintained in an electronic format. In the normal course of business, the agency will take the necessary actions to ensure: hardware and software maintenance, backup procedures, security measures, and compliance with the rules and regulations pertaining to the maintenance of public records.

Thus electronic records designated as permanent are required to be retained by State and local agencies in perpetuity just as certain paper records are.

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[3] Mary Gay Whitmer, "Seek and Ye Shall Find? State CIOs Prepare Now for E-Discovery!," NASCIO, 2007.

[4] Ross Harvey, *Digital Curation: A How-To-Do-It Manual* (Neal Schuman Publishers: 2010), p. 8.

II. The Current State of Electronic Record Retention

Retention and disposition schedules for public records are promulgated by the SRC based on the day-to-day work of records analysts in the Division of Revenue and Enterprise Services (DORES)[5] in consultation with archivists in the Department of State. This procedure is codified in *N.J.S.* 47:3-19 & 20. At present, 27 categories (series) of records in the general retention schedule for state government are designated as permanent or subject to "archival review" by regulation.[6] Nearly 2,000 categories of records listed in the agency-specific retention schedules are designated as permanent or subject to archival review. Many of these file types are now created electronically, and in some cases have been for years, hence the standard language in the retention schedules quoted above.

The New Jersey State Archives in the Department of State, by law, is the state's official repository for public records requiring permanent retention. Since 1920, the State Archives (initially called the Public Record Office) has been in place to receive, and assume legal responsibility for, state government documentation of enduring historical or evidentiary value. This is codified in *N.J.S.* 47:2-4 & 7.

Yet there is no infrastructure (trained staff, servers, protocols, etc.) in place to enable the State Archives to legally ingest and preserve historical *electronic* files under accepted standards and with the necessary technological safeguards. Thus the perpetual retention of permanent electronic records (unlike permanent paper records) falls to the individual agencies and their IT staff regardless of the statutory mission of the State Archives. Since IT professionals generally are not vested with responsibility for records management or legally required electronic records preservation, costly and tragic losses are inevitable.

DORES has proposed to the SRC certain regulatory reforms and records management initiatives which will, in essence, reaffirm and further mandate the retention of permanent electronic files. In consideration of this, the SRC has resolved that to responsibly move forward with these reforms it must look at the life-cycle of electronic records holistically. This means concurrently promoting the development of sufficient infrastructure for state government to preserve permanent electronic records as is required by law.

To reiterate Kenneth Thibodeau, formerly of the National Archives and Records Administration, speaking in connection with the federal electronic archives program, we "... must find preservation methods for electronic records that will enable [the Archives] to demonstrate the continuing authenticity of the records over unlimited time frames."[7] Thibodeau goes on to say that "records management methods and archival preservation methods should be complementary and mutually reinforcing."

To assure retention of legally required and/or historical electronic documentation and to promote transparency and accountability in New Jersey state government, what is referred to as a "Trusted Digital Repository" is needed for state agencies. Existing statute and regulation would require that the program be overseen by the State Archives in the Department of State. DORES recognizes this, and has encouraged the SRC and the Department of State to seek means for the establishment of such a program. Note that as of

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[5] Oversight of the State's records management, records storage and certain digital imaging operations were transferred from the Department of State to DORES effective July 1, 2012.

[6] As per DORES staff, February 2013. Archival review is the process in which a member of the State Archives staff appraises the potential evidentiary and historical value of records. This results in a determination by the Archives as to whether to approve the destruction of records or alternatively receive them, or some portion of them, into the State Archives for permanent retention.

[7] Kenneth Thibodeau, "Building the Archives of the Future: Advances in Preserving Electronic Records at the National Archives and Records Administration," *D-Lib Magazine* 7 (February 2001).

Fall 2012, New Jersey was one of only thirteen states and U.S. territories that have not already established an electronic archives program.[8]

III. Resources Needed and Plan of Work

The 13-member staff of the State Archives does not currently include any professionals trained in electronic archives. This is a specialized field, and while general principles of archival preservation and records management apply, extensive formal training in file and metadata standards, technological issues, data migration and back-up/security protocols is needed. Electronic records archivists incorporate traditional archival concepts with information technology (IT). Given the vulnerability of electronic data, appropriate staff must be in place in order for the State to move forward responsibly with an electronic archives program. The task requires professionals with relevant academic concentration (e.g., in digital curation), possibly certification, and practical experience in this specialized field. Given restraints on hiring in recent years, the State Archives has not had the opportunity to hire archivists with these qualifications. A sufficient level of in-house technical expertise cannot be accomplished through additional, occasional workshop sessions for existing staff.

The human-resource component is needed, in fact, *in order to* effectively and fully assess and specify the needed hardware, software, and IT support for the initiative. Until large amounts of electronic records held by the Office of Information Technology (OIT) and the Office of Treasury Technology OTT) can be reviewed and quantified, the State Archives can only offer a guess as to the equipment needed. Human resources will be key to the success of such an endeavor. Staff must be formally trained in archival ethics and standards as well as technological standards. Thus IT support alone is not sufficient either. The State Archives recommends that a supervising archivist for electronic records be hired, reporting directly to the Chief of Archives, with an archivist II or comparable title in a supporting role. One or two existing part-time staff might be assigned to the Electronic Records Unit (ERU) as well. The State Archives has also gathered job descriptions of the electronic records archivists in several other states, which can be utilized should a hiring opportunity arise.

The first objective of the ERU would be to survey electronic data at OIT , OTT and elsewhere for potential accession (acquisition) into the State Archives, and to specify and advise on the procurement of needed equipment working with administrative and IT staff in the departments of State and Treasury. This assumes that the Office of Treasury Technology will be tasked with building and supporting the technological platform. The ERU will then develop protocols for the legal transfer (ingestion) of electronic files based on existing statute and regulation, employing use of relevant international standards (e.g., ISO 14721 and ISO 16363).

The resultant Digital Repository will serve state government and the public applying the same principles of archival preservation and access to electronic holdings as are currently applied by the State Archives to paper records under the Open Public Records Act, other statutes, regulations, court orders, etc. The initiative will not expand the statutory role of the State Archives for state government, but will rather provide the means for the Archives to fulfill its present core mission in a digital age. While the Archives by

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[8] Council of State Archivists, *Digital Preservation Capability Self-Assessment* composite results, 2012.

law serves all three branches of state government, the program will initially address the needs and records of the executive branch agencies that currently transfer modern records to the Archives on a regular basis.

Finally, it is important to make clear what the Digital Repository will *not* be. It will not be a publicly searchable databank of non-permanent or non-substantive electronic data (such as email backups). The same rigorous archival review process will be applied to potential accessions of electronic files as is applied to the acquisition of historical paper records. And the same rigorous application of statute (OPRA, etc.) will be applied to public access as is currently applied by the State Archives to its paper holdings, which include extensive institutional and gubernatorial records already subject to certain restrictions. Web-enabling of some component of the electronic archive is envisioned; however, it is premature at this point to speculate as to the scope and content of that aspect of the initiative. The immediate need is for the State to be sufficiently equipped and staffed so that historical electronic data can be accessioned and ingested for legitimate ongoing use by government agencies and New Jersey's citizens.

IV. Fiscal impact

The projected fiscal need for FY 2014 and 2015 includes the hiring of staff as outlined above, fringe benefits, ongoing training for existing and new staff, and start-up technology. Human resources-related costs would be funded in the Department of State. Technology costs, presumably, would be funded in the Department of the Treasury.

Human resources	**FY 2014**	**FY 2015**
Supervising Archivist salary (Range R27, Step 3/4)	$72,098	$75,201
Archivist II salary (Range P21, Step 3/4)	$54,775	$57,092
Fringe benefits for above salaries (45.45%)	$57,664	$60,128
Travel and continuing training	$3,500	$3,500
Subtotal – human resources	*$188,037*	*$195,921*
Technology		
Equipment and supplies	$50,000	$25,000
Software	$10,000	$5,000
Subtotal - technology	*$60,000*	*$30,000*
TOTAL	***$248,037***	***$225,921***

V. Partnership Possibilities

There may be some interest on the part of academic institutions to partner with the State of New Jersey in this initiative. Potential in-state academic collaborators with sufficient technological capacity include Rutgers University, the New Jersey Institute of Technology, and possibly certain state colleges. Assuming that legal responsibility for the records would remain with the State Archives, it is unclear what the advantage or goal for the academic institution would be in taking on such an initiative connected to public records. While a hypothetical web-based interface with the electronic archive might be appealing to

an academic institution, becoming a digital repository for the State raises legal questions which would have to be explored.

Lastly, it should be noted that some states are looking into collaborative electronic records programs. Washington State Archives, for example, has offered to partner with other states (subject to reimbursement of Washington's costs). Its Digital Archives stores and manages over 60 million records amounting to approximately 32.75 terabytes of data.[3] The states of Washington and Oregon are currently determining the feasibility of sharing electronic-archives resources. Of course, collaboration with another state or states would also present legal issues with regard to ensuring the perpetual integrity of, and ability to certify, state records.

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[3] "Electronic Records in the Northwest," *Annotation: National Historical Publications and Records Commission Annual Report* (2012), p. 28-29.

STATE OF NEW JERSEY
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MINUTES
STATE RECORDS COMMITTEE
December 12, 2013

Michael J. Tyger, Secretary, called the 407th meeting of the State Records Committee to order at 10:10 a.m. on the above date. He stated that notice of the meeting had been posted in the Secretary of State's Office and published in the state's daily newspapers in conformance with the requirements of the Open Public Meetings Act.

Mr. Tyger stated that this would be the last meeting of 2013. He noted the many achievements over the past year and wanted to extend a thank you to the Records Management and Archives staff that made it happen. He has a deep appreciation for both the staff and the client agencies whose efforts make the State Records Committee look good. Mr. Tyger also thanked his colleagues for their time and effort and also their concern and attention that they continue to demonstrate with regard to the records of the State. He stated that it was his pleasure to serve with the members of the Committee. Finally he wanted to thank the State and Local agencies who we work with all year long. The goal is to collaborate with the agencies to properly manage and preserve the records and he feels that we have accomplished that.

2013 was a year of transition which included numerous staff changes and procedure changes. Some changes have worked very well and some are still a work in progress, but we have made some significant steps and are certainly well-positioned to achieve even more in 2014.

Joseph Klett spoke on behalf of the members of the committee and the Records Management and Archives staff by thanking Mr. Tyger for all that he has done for the last few years. Mr. Klett also wanted to thank Mr. Tyger personally for how he had navigated us through the ups and downs during the last few years.

ATTENDANCE:

SRC: Attorney General, Lisa Dorio Ruch, designee
Division of Local Government Services, Erin Mallon Knoedler, designee
State Auditor, William Robinson, designee
State Treasurer, Michael Tyger, designee
State Archives, Joseph Klett

III. OLD BUSINESS:

A. **Image Certifications:** None

B. **Retention Schedules:** None

C. **Special Request and Authorization for Records Disposal:** None

D. **Other:**

Mike Tyger received a follow up letter from Department of Transportation in October regarding their retention schedule conditionally approved in July, 2013. DOT reports that they have four remaining meetings because they are meeting with different sections to drill down on all the questions received from the State Archives. They were going to meet on November 7, 14 and 25. After those meetings there they were going to go through an internal process to review all of their revisions with their Assistant Commissioners for final sign off and commentary. The comments will be due to the Office of the Inspector General at DOT by Friday, January 10, 2014. Between January 10 and 31 they will integrate those comments and that will be with discussion from Records Management and they hope by April they will be able to present the finalized Records Retention Schedule to the Committee. Mr. Klett stated that the Archives staff has been very satisfied with the process and progress to date.

Mr. Klett brought up the topic of Electronic Archives and that he received support from OIT. The topic is also a discussion item for the FY2015 budget process, with the hope of getting some funding to add staff to the State Archives that have expertise in Electronic Archives. In the interim, a group will begin to assist with further defining some system needs and requirement, which ultimately will lead to a formal Business Case Review with OIT.

IV. NEW BUSINESS:

A. **Records Retention Schedules:**

Motor Vehicle Commission – prepared by Vilirie Perry
Facilities and Support Services, Imaging Services Center (ISC) – Imaging Unit/Transaction Review S794001-002 Item 0007-0000 – Approved without change

B. **Special Request and Authorization for Records Disposal:** None

V. OTHER BUSINESS:

Barbara Goszka informed the Committee of the restructuring of the Management Staff of DORES which included Peter Lowicki as Deputy Director, Steve Crescenzi as Assistant Director and Irwin Nadel as Records Management Chief. Mr. Lowicki thanked the Committee for allowing him to attend the meeting.

Joseph Klett discussed the use of "Permanent" in the "Retain in Agency" column on Retention Schedules. He suggested that there be a time period rather than the word permanent. While not requiring any formal vote or action at this time, the Committee discussed and agreed in concept that we should be trying to move toward a defined period rather than permanent for agency retention. The concept of permanent retention is best handled by the State Archives.

OAG proposed changes to DOS revision of N.J.A.C. 15:3

The recommendations are summarized as follows-

GLOBALLY: References to statutes where previously it was cited as just "N.J.S." were changed to "N.J.S.A", example see # 3 below.

SPECIFIC EDITS:

1) Pg 1- **15:3-1.1 Purpose and Scope**. SECTION RETAINED IN REDUCED FORM

~~(a)~~ Pursuant to P.L. 1920, c.46 (N.J.S.A. 47:2-3 et seq.), P.L. 1953, c.410 (N.J.S.A. 47:3-26 et al.), and P.L. 1994, c.140 (N.J.S.A. 47:3-26 as amended), the Division of Archives and Records Management in the Department of State is charged with ~~the responsibility for~~ establishing ~~the~~ a systematic and comprehensive framework for the management of public records of ~~the State of New Jersey~~ all public entities at the State, county and local government levels, including subdivisions thereof, any department, division, board, bureau, office, commission, district, or institution, or other instrumentality within or created by the State or political subdivision or combination of political subdivisions; or any school, fire, or water district or other special district or districts; and any independent authority, commission, district, institution, or instrumentality; or special districts, and authorities. ~~in a systematic and comprehensive fashion. State and local government agencies are required to make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and to provide prompt and timely access to the same.~~

~~(b) This chapter encompasses.~~

Pg 19- **Deleted : 15:3-1.2[3] (a)**

Keeping the purpose and scope in this reduced version could be in exchange for deleting § 15:3-1.2[3] (a) The Division of Archives and Records Management in the Department of State, with the approval of the State Records Committee, established under P.L. 1953, c.410, § 6 (N.J.S.A. 47:3-20), shall promulgate such rules as may be necessary to effectuate the management of public records in a systematic and comprehensive fashion and to safeguard the State's documentary heritage.

NOTE: THIS MEANS THE NUMBERING FOR SECTION 1 REMAINS IN ORIGINAL FORM

2) Pg 18/51 - I recommend moving the definition for "Records Disaster Prevention and Recovery Program" from **15:3- 2.5 Vital records program to 15:3-1.2 Definitions** in its rightful alphabetical order. Reasoning – the definition of Vital records was moved to this first definitions section from a later position and the vital records definition refers to vital records being considered as part the "records disaster prevention and recovery program" without explanation. This move would be consistent with the placement of the vital records

program definition being in this first section as well. The following definition would be inserted between "Records Center" and "Records Officer":

> Records disaster prevention and recovery program" means a written and approved plan detailing how records will be handled in a disaster prior, during, and after in the recovery stage. Also includes interim operating procedures.

3) Pg 34 & 36 – Section **15:3-2.1 Retention and disposition of public records**

RE: **(a)** – TYPO, the reference to the statute should read as follows:

> (a) See ~~N.J.S.~~ N.J.S.A. 47:3-15 through 32 relative to ~~[The following pertain to]~~ authorization for destruction of public records and the establishment and purpose of the State Records Committee.

RE: **(a)(6)** - LANGUAGE REDUCTION

> 6. No official vote or action shall be required for ~~routine~~ administrative actions of the staff of the Division ~~[of Archives and Records Management]~~ previously authorized by the Committee **until the Committee determines such actions are** ~~deemed~~ **no longer administrative in nature.** ~~[, including, but not limited to, approval of destruction of public records in accordance with established record retention schedules, changes in previously approved record retention schedules due to name changes or reorganization of State or local agencies or units within such agencies, and annual renewal of certification of image processing systems for public records or other administrative actions regarding certifications of such imaging systems].~~ Notification of all [such] administrative actions by the Division shall be declared and recorded at the subsequent meeting of the Committee.

4) Pg 46-47- Section **15:3-2.2 Disposal of public records**

(h) (4.) I recommend leaving the term "depository agreement" capitalized even though the term does not appear in earlier definitions. The subsection defines the agreement in six subparts ("i" through "vi"). Additionally, the term is generally used to describe an agreement encompassing the elements within this section and acts as a proper name.

5) Pg 59 – Section **15:3-2.7 Standards for paper for permanent records**

TYPO – The sentence recommended by the Division should read as follows:

> Identification of the issuing ~~o~~ organization can be found in N.J.A.C. 15:3-4.2.