



Central Marin Police Authority

Staff Report

TO: Central Marin Police Council

FROM: Michael A. Norton, Chief of Police
Zaneta Feleo, Administrative Assistant

DATE: November 2, 2017

RE: Establishing a Records Retention Schedule for the Central Marin Police Authority

ACTION REQUESTED

That Council hear the staff report, take comment and adopt Resolution No. 2017/15.

DISCUSSION

The Authority manages numerous types of official documents/records. Government Code Section 34090 provides that a local agency may discard/destroy original records no longer needed (without making copies) with the approval by resolution of the legislative body and with the written consent of the agency's legal counsel.

A properly prepared and formally approved records retention schedule is a comprehensive inventory of records under management by the Authority, and such a schedule constitutes CMPA's legal authority to discard/destroy unneeded records. The CA Secretary of State recommends that a new schedule be approved every five years. Once records have fulfilled their administrative, fiscal or legal function, they should be disposed of as soon as possible. Unneeded records overburden staff, slow response times to public requests, are inefficient, deplete resources and extend an agency's legal liability. A records retention schedule describes each record type and a specific retention period for each type. Federal and State statutes require certain minimum or maximum retention periods for different types of records. Variations in the retention periods, as allowed by statute, are often recommended to meet various Authority and public interests.



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Staff Report

After the Central Marin Police Authority was formed in 2013, the Authority has followed the records retention schedules of both the Twin Cities Police Authority and the San Anselmo Police Department. The Authority, in order to ensure compliance with current retention regulations and to facilitate administrative efficiency, now wishes to establish a single, comprehensive retention schedule approved by formal resolution of the Police Council which will constitute the necessary legal authority to destroy records after the applicable retention period has expired. Pursuant to Government Code Section 34090, the written consent of the Authority's attorney is still required each time any records are destroyed. The proposed records retention schedule (Attachment 1) comprehensively covers the retention requirements for all Authority records, and has been reviewed and approved by the Authority's legal counsel.

STAFF RECOMMENDATION

That Council adopt Resolution No. 2017/15 establishing a records retention schedule for the Central Marin Police Authority and authorizing the destruction of records as specified therein.

Respectfully submitted,

Michael A. Norton
Chief of Police

Attachments:

1. CMPA Records Retention Schedule
2. Resolution No. 2017/15

**CENTRAL MARIN POLICE AUTHORITY
RECORDS RETENTION SCHEDULE**

Retention Codes: AP= After Approval AR= Annual Review A= Audit C= Closed/Completed CU=Current Year E=Expiration I= Indefinite P= Permanent S= Suspended T= Termination

Record Series Title and Content	Record Retention Periods		Office of Record	Authority/Remarks
	Office Guideline	Total Requirement		
POLICE				
Alarms -applications and permits	current + 5 years	current + 5 years	Records	Authority -GC 34090, 2 years Admin Decision -to retain an additional 3 years to meet government audit guidelines
Arson, Drug and Gang Registration	25 years, if a juvenile, 25 years or order by court to seal records (whichever comes first)	25 years, if a juvenile, 25 years or order by court to seal records (whichever comes first)	Support Services	Authority - HS 11590, 11594, PC 186.30, 186.32(d), 457.1(b)(1) and (j) - records of statements, photographs and fingerprints shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer Admin. Decision - to better track offenders
Assaults on Police Officers all felony or misdemeanor assaults on police officers with or without weapons	25 years	25 years	Records	Admin. Decision - to track potentially violent individuals. Track individuals who have demonstrated violence to police officers.
Asset Forfeiture Files	C+2 years	C+5 years	Support Services	Authority - CCP 340(b), 2 years
Audio, Telephone, Radio Communications, Video Surveillance Monitoring (including jail and building)	180 days	180 days	Admin.	Authority - GC 34090.6, 100 days. In the event there is a claim filed or pending litigation, they shall be retained with case file. Admin. Decision - retain an additional 80 days instead of 100 days required by the code
Video Recordings (including body worn camera)	1 year	1 year		Authority - GC 34090.6
	C+3 years	C+3 years		Authority - PC 832.18 - 60 days for non-evidentiary data, 2 years for evidentiary data
CAD Incident Data (Computer information received in progress)	100 days	10 years	Records	Authority - GC 34090.6, 100 days. In the event there is a claim filed or pending litigation, they shall be retained with case file.

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	Office Guideline	Total Requirement		
Crime Reports				
Arrests (later deemed drunk in public detentions)	5 years	5 years	Records	Authority - PC 647(f), 800, 802, 849 et seq. is 2 years provided there are no outstanding warrants, deaths Admin. Decision - CMPA wishes to retain an additional 3 years
Arrests - Warrant Arrest Reports Arrests on traffic warrants, out-of-agency warrants, and other warrants where no internal crime report exists	2 years	5 years	Records	Authority - GC 34090, 2 years
Child/Elder, Abuse/Neglect	10 years	10 years	Records	Authority - PC 11169(i), 11170(a)(3); GC 34090, DOJ recommendation
Child/Elder, Abuse/Neglect - Unsubstantiated or Inconclusive	No further report on suspected abuser + 10 years	No further report on suspected abuser + 10 years	Records	Authority - PC 11169(i), 11170(a)(3); GC 34090, DOJ recommendation
Domestic Violence (assault & battery, willfull infliction of corporal injury; violation; punishment, includes restraining orders)	10 years	10 years		Authority - GC 34090, DOJ recommends retaining for duration of restraining or other orders and any renewals, then retain the order as a judgment, 60 days after expiration of the temporary protective, or temporary restraining order.
Drunk Driving and misdemeanor alcohol violations including regulatory statues	10 years	10 years		Authority - GC 34090 is 2 years
Embezzlement of Public Funds	I	I	Records	Authority - GC 36507, 34090, PC 801.5, 803(c), 801, 424
Evading arrest or resisting arrest (not involving assault against police officer)	10 years	10 years	Records	Authority - GC 34090 is 2 years Admin. Decision - to better track offenders
Factually Innocent Reports (sealed)	3 years	3 years	Records	Authority - GC 34090, PC 851.8; upon determination by CMPA or judicial determination of factual innocence; records sealed for period of 3 years from date of arrest and shall destroy the records and the notice of sealing. No index after destruction.
Felony Drug Reports	10 years	10 years	Records	Authority - GC 68152
Hate Crimes, Anti Reproductive Rights Crimes	25 years	25 years	Records	Admin. Decision - to track potentially violent individuals. Track individuals who have demonstrated violence to police officers.
Homicide or Suspicious Unattended Deaths	P	P	Records	Authority - GC 34090, PC 799; Indefinite retention is recommended by DOJ and CA Law Enforcement Officers Assoc.

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	Office Guideline	Total Requirement		
Misdemeanor/Miscellaneous police reports, property and non-victim, non-felony	10 years	10 years	Records	Authority - GC 34090; PC 802, Not involving felonies. They can be destroyed 3 years provided copy of said report has been placed with case file.
Misdemeanor marijuana offenses, violations less than 28.5 grams	2 years or when subject is 18 years old	2 years or when subject is 18 years old	Records	Authority - HS 11361.5, 11357 b, c, d or e, or until offender reaches the age of 18 years, provided there are no active warrants associated with the case.
Officer Involved Shooting	C+25 years	C+25 years	Support Services	Authority - EVID 1045, GC 12946, 43090, PC 801.5, 803(c), 832.5, VC 2547, PC 799, DOJ regulates, not involving felonies the report can be destroyed after 3 years, provided that account of said report has been placed with the case file. Case files should be destroyed according to guidelines set forth for individual case files.
Reports issued in error or determined unfounded by investigation	2 years	2 years	Records	Authority - GC 34090 is 2 years
Misc. Public Service, return/found, lost & found property	2 years	2 years	Records	Authority - GC 34090 is 2 years, (Note: supportive documents for 1993-96 will be destroyed after 5 years, 1997-99 will be destroyed 180 days after they have been imaged) (Imaged records must be destroyed after 2 years)
Persons crime reports, assault & batter, misdemeanors and felonies	10 years	10 years	Records	Authority - GC 68152
Police Reports - Serious Non-Crime Reports suspicious circumstances, explosions (not determined to be criminal in nature), aircraft accidents, overdoses, reports of assistance granted to outside agencies, and any other non-crime not described elsewhere in this schedule	10 years	10 years	Records	Authority - GC 34090 is 2 years Admin. Decision - CMPA to retain for an additional 8 years in order to describe events that are serious in nature and the events described may evolve into important issues over time.
Possession of Marijuana at School	C+2 years or when subject is 18 years old	C+2 years or when subject is 18 years old	Records	Authority - HS 11361.5, 11357 b, c, d, or e, or until offender reaches the age of 18, provided there are no active warrants associated with the case.
Protective Custody - Juvenile Reports	10 years	10 years	Records	Authority - GC 34090 is 2 years Admin. Decision - PD to retain for an additional 8 years. Information may be relevant to a particular juvenile's case even after 10 years.
Sexual Assaults - excluding Child Molestation	25 years	25 years	Records	Authority - GC 34090 is 2 years. Admin. Decision - Megans Law & PC 290, PD maintains for 25 years.
Sexual Assaults - Molest cases	25 years	25 years	Records	Authority - GC 34090, DOJ recommendation is 25 years.

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Record Series Title and Content	Record Retention Periods		Office of Record	Authority/Remarks
	Office Guideline	Total Requirement		
Suicides, suicide attempts and unattended death reports (where no suspicious circumstances were revealed during the investigation)	25 years	25 years	Records	<u>Authority</u> - GC 34090 is 2 years <u>Admin. Decision</u> - CMPA to retain data, information may surface at a later date that could change the status to a potential homicide.
Tow Reports	3 years	3 years	Records	<u>Authority</u> - GC 34090 is 2 years. <u>Admin. Decision</u> - Retain an additional year
Traffic Collision Fatalities	25 years	25 years	Records	<u>Authority</u> - GC 34090 is 2 years. <u>Admin. Decision</u> - CA Law Enforcement Warrant Officers Association recommends retaining permanently. Despite recommendation, PD would like to change to 25 years which should be sufficient to resolve all civil issues.
Traffic Collision Reports - Injury, non-fatals, including misdemeanors	5 years	5 years	Records	<u>Authority</u> - GC 34090 is 2 years. <u>Admin. Decision</u> - CA Law Enforcement Warrant Officers Association recommends for an additional 3 years. (Note: Hard copies and alpha file will be purged.)
Vehicles embezzled or joy ridden vehicle reports, reports on the recovery of vehicles stolen in other jurisdictions but recovered in CMPA Jurisdiction	5 years	5 years	Records	<u>Authority</u> - PC 499(b), GC 34090 is 2 years <u>Admin. Decision</u> - CMPA to retain for an additional 3 years
Vehicle Violation reports - infractions and misdemeanors not listed elsewhere in this schedule	3 years	3 years	Records	<u>Authority</u> - GC 34090 is 2 years <u>Admin. Decision</u> - CMPA to retain 3 years to match Tow reports, including towing of an offending vehicle
Possession of illegal weapons, carrying concealed weapons, and other crimes relating to the possession or use of illegal weapons where no other crime has occurred	10 years	10 years	Records	<u>Authority</u> - GC 34090 is 2 years <u>Admin. Decision</u> - CMPA to retain an additional 8 years to track potentially violent individuals.
Department Manuals (Policies, practices, and procedures)	S+2 years	S+2 years	Admin	<u>Authority</u> - GC 34090
Municipal Code Citations	C+3 years	5 years	Records	<u>Authority</u> - GC 34090, 2 years
Inventory Range/Armory & department weapons list of equipment assigned to division, to whom it is assigned. Equipment inventory (including sign-out cards)	T+5 years	T+5 years	Support Services	<u>Authority</u> - GC 34090, 2 years <u>Admin. Decision</u> - retain duration of employment + 5 years

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	Office Guideline	Total Requirement		
Licenses & Permit Reports, Concealed weapons, Dealer - Second-hand, Firearms dealer, Pawn slips, tickets	E+2 years	E+2 years	Support Services	Authority - GC 34090
Logs	2 years	2 years	Admin	Authority - GC 34090
Mental Health Commitment (Reports of 5150 W&I) 5152.2, Notification from medical facility	25 years 2 years	25 years 2 years	Records	Authority - GC 34090, PC 802, 187, 800 et seq., DOJ regulates Authority - W&I 5152.2; must destroy records 2 years after date of record.
Missing Persons (Solved)	5 years	5 years	Records	Authority - GC 34090 is 2 years Admin. Decision - Brings process into line with DOJ missing person
Missing Persons (Unsolved)	P	P	Records	Authority - GC 34090, DOJ recommendation
Personnel Files - Background files, including applicant files (non-hired)	C+2 years	C+2 years	Admin	Authority - GC 12946 is 2 years unless a complaint has been filed then the file shall be maintained until the proceedings have been terminated. An EEOC complaint can be filed within 49 months.
Background files, including applicant files (hired)	T+7 years	T+7 years		Authority - GC 12946, Statutory minimum is 2 years. The Authority shall retain the background information until the employee separates from service +7 years.
Citizen complaints against peace officers (including and resulting Internal Affairs Investigation)	C+5 years	C+5 years		Authority - PC 832.5(b), Statutory minimum is 5 years. Policy is follow statute unless complaint is regarding discrimination or sexual harassment, which shall be retained indefinitely.**
Administrative review for vehicle pursuits and vehicle accidents	C+5 years	C+5 years		Authority - GC 34090 is 2 years for internal affairs investigations. Documents involving discrimination or sexual harassment, retained indefinitely.
Internal Affairs Investigations internally initiated	C+5 years	C+5 years		Authority - GC 34090 is 2 years for internal affairs investigations. Documents involving discrimination or sexual harassment, retained indefinitely.
Employee Personnel file	C+2 years	C+2 years		Authority - GC 34090, 12946, 29 USC 1113, 29 CFR 1602.31, 1627.3(b)(1) and CCR 3204(d)(1) et seq. SOL is Termination + 6 years .

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	Office Guideline	Total Requirement		
Registration of Sex Offenders - Adults	Life of Registrant +3 years	Life of Registrant +3 years	Support Services	Authority - PC 290, W&I 781 (Supportive documents will be destroyed 180 days after they have been imaged and verified.)
Registration of Sex Offenders - Juveniles	Age 38 or Court ordered sealing date +5 years	Age 38 or Court ordered sealing date +5 years	Support Services	Authority - PC 290, W&I 781(d) (Supportive documents will be destroyed 180 days after they have been imaged and verified.)
Reports for Destruction of Narcotics	C + 3 years	C + 3 years	Support Services	Authority - GC 34090 is 2 years. Admin. Decision - This is dependent on case situation, could be evidence.
Reports for Destruction of Seized Gun Reports	25 years	25 years	Support Services	Authority - GC 34090 is 2 years. Admin. Decision - This is dependent on case situation, could be evidence. Thefts involving weapons is 25 years.
Sealed Juvenile Reports	Date of Court Ordered Destruction	Date of Court Ordered Destruction	Records	
Stolen Vehicle Reports, Altering Vehicle VIN number reports	10 years	10 years	Records	Authority - GC 34090 is 2 years. Admin. Decision - CA Law Enforcement Warrant Officers Association recommends retaining for 10 years. (Note: Supportive documents will be destroyed only if there were no arrest from 1993-1996).
Traffic Citations	3 years	3 years	Records	Authority - GC 34090 is 2 years Admin. Decision - These have the officers notes on the back of the citation, this differs from the citizens and courts copies. PD receives subpoenas for up to 3 years. If PD runs a partial plate number they check for prior history and relation to the suspect(s).
Training Records, training bulletings, correspondence and attendance	T+7 years	T+7 years	Support Services	Authority - 29 CFR 1672.3(b)(1), 8 CCR 3204(d)(1) et seq., GC 12946, GC 34090
Lesson Plans	T+7 years	T+7 years	Support Services	Authority - 29 CFR 1627.3(b)(1), Statewide Guidelines & Cal OSHA requires 7 years Note: Claims can be filed up to 30 years for toxic substance exposure.

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Record Series Title and Content	Record Retention Periods		Office of Record	Authority/Remarks
	Office Guideline	Total Requirement		
Vehicle Abatement Reports Includes warning notices	5 years	5 years	Records	<u>Authority</u> - GC 34090 is 2 years.
Vehicle Damage (reports and forms)	2 years	2 years	Admin	<u>Authority</u> - GC 34090

**CENTRAL MARIN POLICE AUTHORITY
RESOLUTION NO. 2017/15**

**A RESOLUTION OF THE CENTRAL MARIN POLICE COUNCIL OF
THE CENTRAL MARIN POLICE AUTHORITY APPROVING A
RECORDS RETENTION SCHEDULE & AUTHORIZING THE
DESTRUCTION OF RECORDS AS SPECIFIED THEREIN**

WHEREAS, the Central Marin Police Authority seeks, pursuant to Government Code Section 34090, to adopt a formal, comprehensive records retention schedule for all Authority records; and

WHEREAS, the Central Marin Police Authority seeks to ensure full compliance with all current records retention statutes and regulations and to facilitate administrative efficiency in the management and disposal of all unneeded records;

NOW, THEREFORE, BE IT RESOLVED, that the Central Marin Police Council approves the Central Marin Police Authority records retention schedule attached hereto, and hereby authorizes the disposal/destruction of records in accordance with the retention schedules specified therein, subject to the review and written consent of the Authority's legal counsel as required by Government Code Section 34090.

IT IS HEREBY CERTIFIED, that the foregoing resolution was duly introduced and adopted at a regular meeting of the Central Marin Police Authority Council on the 2nd day of November, 2017 by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:
ATTEST:

Zaneta Feleo, Authority Clerk
Central Marin Police Authority

Ann Morrison, Council Chair
Central Marin Police Authority