

# **GUIDELINES FOR PURGING LOCAL CRIMINAL CASE FILES**

June 2003

The purpose of this project is to purge records which are no longer required and retain records which are permanent - as defined in the *Records Retention and Disposition Schedule for Criminal Records of the Criminal Court of the City of New York, City Courts, District Courts, and Town and Village Courts*. It is anticipated that this purge process will allow Towns and Villages to dispose of more than 50% of their court case files for years eligible for destruction - resulting in more efficient files management, recaptured space, recyclable filing systems, and reduced costs for micro-imaging the records that remain.

There are several factors which make purging criminal case files difficult:

- ! There are 5 *different* types of criminal actions identified in the Records Schedule: Misdemeanors, Felony Arraignments, Motor Vehicle/Traffic, Parking, and Violations.
- ! Each case type has several retention alternatives. These may include: six years, ten years, twenty years, twenty-five years, fifty years or permanent.
- ! The retention period for each case is based on the disposition charge, NOT the arrest charge.
- ! The Records Retention Schedule is set up by case type, the filing systems are generally alphabetical or numerical.
- ! The case files/papers are not marked in a way that makes the case type and/or the disposition charge easily identifiable.

This guideline describes a process for identifying and purging criminal records currently stored in the offices of the Town and Village Clerks and the Town and Village Courts.

The steps for implementing the purge process include:

## 1. ASSIGNING PERSONNEL

- ! We suggest that during this training process you identify as many people as possible to participate in the *initial stages* of this project. They will be able to learn the process together and provide insights and constructive advice to each other by working as a group. If, however, you start with a small number, designate someone who will be responsible for training the others as they become available at a later date.
  
- ! Make sure at least one staff person is familiar with court records. The others should have the capacity to learn easily and work cooperatively with the rest of the group.
  
- ! Designate someone with the ability to move heavy boxes.

## 2. CREATING A WORKSPACE

Select a well lit, ventilated area which will accommodate a large table, enough chairs for everyone to be seated, and a space near the table for placing boxes/records as they are brought in for processing. It is also important to have a separate staging area for placing records after they have been evaluated, separating those which will be destroyed from those which will be returned to the files. It is recommended that you place these records in boxes while they are in the staging area, keeping the cases being returned to the files in original sequence order.

### **3. GATHERING SUPPLIES**

**IT IS HELPFUL TO HAVE ALL YOUR SUPPLIES READILY AVAILABLE BEFORE YOU BEGIN THE PROJECT. We recommend that these include:**

- ! Aprons and gloves. This is dirty, dusty work. Staff should dress down. If conditions warrant, masks may also be necessary.**
- ! Empty boxes. These will be used to hold files in the staging area.**
- ! Library cart or some other form of transport that will enable you to move records back and forth from their original storage place to the table, to the staging area, etc.**
- ! Several sets of different colored markers for each person, to be used to identify the various case types. This might include highlighters if you want to color right over the docket number, or magic markers or colored pencils if you will be placing colored marks in a corner of the file jacket.**
- ! “Cheat sheets” that will enable you to identify the different types of offenses (misdemeanors, infractions, violations, etc.). Because the retention period is based on the disposition type and the disposition will most often be expressed as a name or number, you need a mechanism which will help you identify the corresponding category for the name or number. UCS personnel will bring a variety of “Cheat Sheets” during the training process to help you select the one that is easiest for you to use, but if you want to select one beforehand, please do so (a partial list of these “Cheat Sheets” is listed on page 4).**
- ! The Records Retention and Disposition Schedule for Criminal Records of the Criminal Court of the City of New York, City Courts, District Courts and Town and Village Courts.**
- ! Unified Court System Records Management Guidelines, which include Records Disposition Request Forms and Destruction Guidelines.**

#### **4. IMPLEMENT THE PROJECT**

##### **A. REVIEW THE RECORDS RETENTION SCHEDULE:**

**This will enable you to familiarize yourself with the different types of actions and to identify the *five* case types that are eligible for purging. Select the year(s) to be purged and identify the records' location.**

##### **B. REVIEW THE FILES; IDENTIFY CASE DISPOSITION**

**It is suggested that everyone doing the evaluation review the first 10-20 files together, discuss their findings and make sure they all agree on case type and disposition charge identification criteria.**

**Because the disposition will most often be expressed as a section number of the Penal Law or V&T Law, it will be necessary for you to consult a source which will tell you whether the number corresponds to a misdemeanor, infraction or violation as these have different retention requirements.**

**This information can be found in a variety of sources, some of which are listed below. This list is not to be considered an endorsement of these products but just a list of the products we have encountered in our travels.**

- ! Your local Police Department. They probably have one of the following or similar sheets, which they use to fill out arrest information.**
  
- ! For general information, you can consult the Town and Village Resource Center; 98 River Street, Cohoes, New York 12047  
1-800-232-0630**

**You will need permission to open sealed cases to see if they were sealed because the case was adjudicated in favor of the defendant (dismissed or acquitted only) or because the defendant received youthful offender treatment. Youthful Offender status does not fall under the “adjudicated in favor of defendant category” even though it is sealed; it must be retained for the same length of time as an ordinary conviction. Discuss procedures for opening sealed records with your Town Justice or OCA District Office.**

- ! SEPARATE THE CASES TO BE DESTROYED AS SOON AS THEY ARE IDENTIFIED; place them in separate piles or in boxes in an area where they will not be confused with the records which will be returned to the files. It may be useful to mark the purged boxes to indicate that you have already reviewed the files.**
- ! If it is appropriate, you may choose to create a list and/or update your database to identify Misdemeanor and Felony Arraignment cases that are being destroyed. OCA can help you devise a strategy during the training process.**

### **C. RETURN INELIGIBLE CASES TO STORAGE**

**Cases which are not yet eligible for disposition should be re-filed, but with annotations that will help you purge them easily in the future. We suggest you do this only for Misdemeanors and Felony Arraignments. You will have to indicate the year the case is eligible plus a notation which identifies the case type, using letters and/or color codes. This will be discussed in more detail during the training sessions.**

**How you mark your jackets depends on what kind of files you use and how your files are arranged. For instance if your folders have TABS where the DOCKET Number is the most visible part of the file, then use a highlighter pen to color right over the number. If the Index number is further down on the jacket, you may choose to place a colored mark in whichever upper corner is the one most readily seen when you replace the files back in their filing system. For these marks, we recommend magic markers, crayons or colored pencils. DO NOT USE LABELS AS THESE ARE LIKELY TO EVENTUALLY PEEL OFF. Wherever you mark the folder be consistent!**

5. **FILL OUT A RECORDS DISPOSITION REQUEST FORM AND SUBMIT IT TO THE DIVISION OF COURT OPERATIONS, OFFICE OF RECORDS MANAGEMENT.** As part of your quality control process before submitting the request, records which are designated for disposition should be reviewed by someone who has significant experience with courts records, e.g. the Court Clerk, the Records Room Supervisor. When you have accumulated a significant volume of records eligible for disposition, submit a form to:

**Office of Court Administration  
Division of Court Operations  
Office of Records Management  
25 Beaver Street, Room 883  
New York, New York 10004  
Phone: 212-428-2875; FAX: 212-428-2880**

6. **When the Disposition Request Form is returned to you, it may require you to contact the Office of the State Comptroller for their approval; you may then destroy the records following the OCA Guideline: *Records Management Policy 5.0 - Destruction of Records.***