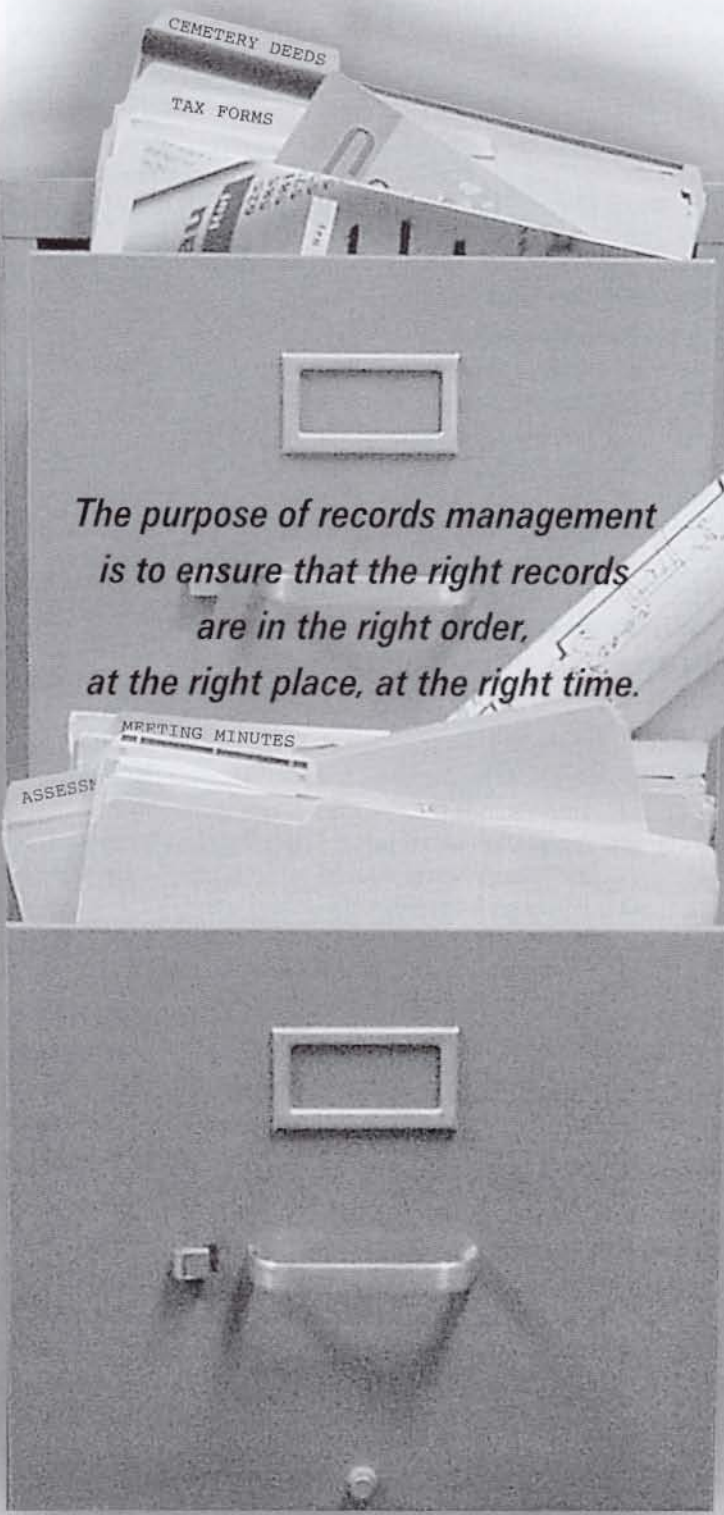


# A PRIMER FOR TOWNSHIP RECORDS MANAGEMENT

By David Johnson, State Archivist,  
State of Michigan



*The purpose of records management  
is to ensure that the right records  
are in the right order,  
at the right place, at the right time.*

**D**oes the following scenario describe your office? Records needed by the office staff cannot be found or have inadvertently been destroyed. Staff spend countless hours trying to find a document required by an auditor, attorney, administrator or a taxpayer. Significant documents, perhaps requested under the Freedom of Information Act (FOIA), have not been found, or critical records needed by the township board regarding a past policy have been misplaced or destroyed. Or, are records with little or no value being stored in expensive office space? If so, you know that with the creation of more and more records, the situation can become worse each year.

Are records kept just on the chance they may be needed for legal or administrative purposes, or because no one knows what to do with them—better to keep the record than take a chance of ‘tossing’ something that may be needed down the road? Are “older” records transferred to the attic, basement, closet, or a shed? Does it seem that no one knows which records are kept where, and retrieval is difficult, if not downright impossible—but they are “around somewhere?”

Such makeshift storage arrangements are detrimental to records. Storage areas are often dirty, quite hot or very cold, too damp or exceedingly dry. Such conditions contribute to brittle records or promote mold and mildew growth. As a result, records are damaged, sometimes irreparably, and their retrieval represents unpleasant work. No one on staff wants to go to “that place” to look for anything, let alone a document lost like the proverbial “needle in the haystack.”

### *The Clerk Manages Township Records*

According to MCL 41.65, the township clerk shall have custody of all the records, books and papers of the township, when no other provision for custody is made by law.

MTA Legal Counsel believes that clerks can maintain custody of township records without actually having physical custody of every record produced by the township. MCL 41.65 makes a distinction between the duties of having "custody" versus "filing" records and papers. This suggests that clerks can have custody of a record without that record being filed in the clerk's office. Therefore, unless a statute specifically states that a record must be filed in the clerk's office, township records can be stored where they will be needed most often. MTA strongly recommends that the township board adopt a policy regarding access to files, taking into consideration the reason for access, FOIA requests processed through the FOIA coordinator and the various statutes regarding custody of township records.

What can be done to better manage township records? Are there helpful laws and policies on this subject? Yes, help is available. Records management principles, particularly the use of record "retention and disposal" schedules, ensure the periodic, systematic and legal destruction of records that have lived out their administrative, legal and fiscal usefulness, while identifying, preserving and making available for future use the relatively small number of records with enduring value, such as historical, ongoing administrative or other research value.

Simply put, the purpose of records management is to ensure that the right records are in the right order, at the right place, at the right time, and are put into the hands of the right people at the lowest possible cost. A retention and disposal schedule is the crucial tool in accomplishing this goal. You can effectively develop and use schedules that become a basic, integral part of office procedures.

### *Legal Parameters*

The State Archives of Michigan, an agency within the Michigan Historical Center of the new Department of History,

Arts and Libraries, plays an instrumental role in assisting townships with managing and disposing of their records. The Michigan Historical Commission Act (Public Act 271 of 1913, as amended; MCL 399.1, *et seq*) provides the legal foundation for this service.

Under Section 5 of the Commission Act (MCL 399.5), the State Archives office is responsible for the identification and permanent preservation of public records that document significant government activities, at both the state and local government levels. In terms of local government, State Archives assists with the management and preservation of local public records by providing guidance about the following: records management and preservation, developing retention and disposal schedules, and storing records in various formats or media such as microfilm, electronic/digital, and paper.

Under Section 491 of the Michigan Penal Code (PA 328 of 1931, as amended; MCL 750.491), no local government record can be destroyed unless it is listed on a retention and disposal schedule reviewed by the Michigan Historical Center (i.e. the State Archives) and approved by the State Administrative Board. The section further declares all public records of local governments to be the property of the State of Michigan and mandates that they be disposed of only in accordance with the Commission Act. Punishment for noncompliance is a misdemeanor.

### *Defining 'Public Records'*

What are "public records?" This concept is sometimes too narrowly construed by government officials. The Freedom of Information Act (PA 442 of 1976, as amended; MCL 15.231, *et seq*) defines public records as: "a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created."

Furthermore, a "writing" means "handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds,

or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, other means of recording or retaining meaningful content." These fairly inclusive definitions argue that virtually all records created or received by township governmental offices are covered.

### *Retention and Disposal Schedules*

Section 5 of the Commission Act requires the establishment and use of retention and disposal schedules by local governments. Local government records may not be destroyed without being listed on a schedule, approved by the Historical Center, the State Administrative Board and others. A schedule that has been reviewed and approved by the State Administrative Board has the effect of law.

What is a retention and disposal schedule? A schedule is a descriptive list of all, or a portion of, the public records created, received or maintained by an agency. A schedule prescribes when a record may be destroyed or that it must be preserved because of its archival value. A "record series" means a discrete unit of records, or records arranged by an agency in a systematic manner, or records maintained as a discrete filing category of records. It has also been defined as "a group of records filed as a unit, used as a unit, and which may be transferred and disposed as a unit." For example, the minutes from one township board meeting are a public record. All of the minutes, agendas and exhibits from all of the township board's meetings are a record series.

A schedule establishes a minimum retention period for each record series—retention periods based upon administrative or "daily" needs, legal and fiscal requirements, and historical value. Established retention lengths are minimum periods of time that a record must be kept.

Historical values are established by the State Archives of Michigan. About 2 to 5 percent of all records have archival value and merit preservation. Archival records typically document an office's organization, functions and activities, and/or provide useful information about persons,

*continued* ▶

places, things, or matters dealt with by the office. They serve as a significant historical resource for the government itself, as well as to private sector researchers who want to better understand local and state history. Examples are minutes of the township board as well as all other boards and commissions, and cemetery maps and plots.

A schedule that has been reviewed and signed by the State Administrative Board is a legal document. It can serve as a valuable management tool in the township's efforts to systemically and legally dispose of records in a timely manner.

### *Townships Have Their Own Schedules*

There are two types of schedules: general schedules and special schedules. A general or "generic" schedule is a pre-

existing schedule that identifies records commonly found in certain types of local government offices. For example, a general schedule developed for retaining/disposing of the records of the township clerk is one of many already prepared.

The Michigan Townships Association has published a general schedule for township offices (General Schedule #10), which has been approved by the State Administrative Board. MTA's sample schedule is available on its Web site at: [www.michigan-townships.org/resource\\_toolkits.htm](http://www.michigan-townships.org/resource_toolkits.htm). Usually, a township will be able to use an existing general schedule to help with managing township public records.

An approved retention and disposal schedule serves as township policy for managing and disposing of records. Some townships undertake annual deter-

minations regarding what records need to be retained and what records can be destroyed. Others use the schedule as a tool for a periodic general housecleaning of records. New township officials occasionally inherit situations where records have accumulated for years, and they use the schedule to "clean house" and make space for new records. In other instances, the fire marshal has ordered the office to address the hazard presented by records in attics, basements and hallways.

General Schedule #10, however, does not note records with archival value. Some records identified with permanent value also possess archival value. The next time this general schedule is revised, any records series with archival value, as opposed to permanent value, should be noted.

A local government office that deter-

## Managing Electronic Records

By Caryn Wojcik,  
Electronic Records Archivist,  
State of Michigan

All government agencies—federal, state and local—are required by law to produce and maintain adequate documentation of their activities. This recorded information, when created in the course of conducting government business, is public record material. While not all public records are accessible to the public, every public record must be maintained or destroyed in accordance with approved record Retention and Disposal Schedules. These schedules indicate: (1) how long public records must be kept; (2) if, and when, they may be destroyed; and (3) whether they have historic or other value that warrants their permanent preservation.

### *Accessibility Issues*

In the paper world, preservation can be a relatively simple task. If the records are properly organized and indexed, stored in a stable environment, and not infested by pests and rodents, they can be preserved indefinitely.

However, electronic records present an entirely different scenario. If a government agency misplaces computer tapes, disks or hard drives in a basement for 40, 20 or even 10 years, these objects will likely

become little more than plastic. The information these pieces of plastic once contained will probably be unrecoverable.

Electronic records are created in a wide variety of forms and formats, including word-processed documents, electronic mail, digital images, databases, spreadsheets, and anything else created with a computer. In addition to these categories are the thousands of software programs required to read and process these records. The bottom line: electronic records are hardware and software dependent.

For the purposes of this article, "long-term" electronic records are defined as those that must be retained beyond the business life of the original hardware and software. Since hardware and software have an average lifespan of about seven years, most electronic records are considered to have long-term value (however, very few of these have permanent or historical value). Due to technology turn-over, long-term electronic records will not remain accessible if agencies do not plan ahead. Local governments are responsible for ensuring that the electronic records they produce and maintain remain accessible until their administrative and legal retention periods expire.

What types of planning can a township do to ensure that these long-term electronic records remain accessible?

- **Monitor and manage the technology that is used.** As new generations of technology replace older ones, the electronic records must be converted, updated and moved so they remain accessible using current technology. Be aware that not all new technologies are compatible with those they replace.
- **Monitor retention periods.** Be careful that you are not wasting valuable time and resources maintaining electronic records with expired retention periods.
- **Collaborate.** Fulfilling the responsibility to maintain electronic records requires the coordination of administrators, information technology personnel, and end users. Each of these groups has a unique role in ensuring that electronic records are properly managed. Administrators must establish business rules and priorities. They must budget for necessary activities, and they must convey responsibilities to their staff. Information technology personnel must evaluate the capabilities of the hardware

mines no general schedule includes all of the records, or each record series in its office will need to develop a special schedule, which is especially developed for the records of a specific township and can only be used by that township. An inventory form and procedures are available from the State Archives to assist with this process.

### *Understanding Records Disposal*

Township officials are encouraged to complete a Certificate of Disposal form (MH-38 form) when disposing of records in accordance with an approved retention and disposal schedule. Forms and instructions for completion are available from the State Archives.

Submission of a completed form fulfills two purposes: it provides the local

official with evidence that a record has been disposed of legally; and it allows the State Archives to identify any records with archival value as well as inform the township of the same. If the township chooses not to preserve a record series identified as archival, the State Archives will request transfer of the records in order to ensure their permanent preservation. Townships are encouraged, however, to permanently retain custody of records with archival value because their greatest value is usually documenting the history of the township government and the community at large.

### *Maintaining the Public's Trust*

Maintaining township records is a public trust. These records are created by the township government at public expense to serve the township's residents. They docu-

ment both the menial and the very significant. Some may be retained for only a short period of time, while others must be kept many years due to their administrative and legal significance. Others are considered archival and need to be retained permanently because they document the history of the township government and the community it serves.

Retention and Disposal Schedules are tools that assist the township officials in this all-important endeavor. Good records management benefits both township residents and officials through increased efficiency and effectiveness, and through knowledge that their heritage, as reflected in the township's archival records, is preserved and available for future generations. ■

and software in use, ensuring that the technology can support the business rules. Finally, end users must interpret how policies affect them and ensure that they are following standardized procedures.

### *Electronic Mail: Case Specific*

A record is a record is a record, but there are certain things about electronic mail (e-mail) technology that make it unique. In recent years, the use of e-mail has matured and exploded, which has a huge impact on recordkeeping.

Employees receive technology resources (such as computers and user accounts) to support their work responsibilities. These technology resources are intended to be used to support official functions of the agency, not personal activities.

### *Is E-mail a Public Record?*

Since public records are any recorded information maintained to support an official function, e-mail fits the definition of recorded information. Therefore, the logic of the law is that all e-mail sent or received using government technology is a public record. In addition, if an employee sends or receives e-mail using personal technology resources (such as a home computer or a personal e-mail account) which supports the performance of an official function, that

e-mail is a public record as well. As a result, employees should have no expectation of privacy when using government technology resources, and administrators should strongly discourage the personal use of these resources.

### *What are E-mail Retention Requirements?*

E-mail software is a tool that is used to transmit records from one computer to another. While e-mail messages are records, they do not all have the same retention requirements. The requirements for an e-mail message, just like any other record, are based upon its content: the reason it was created and the business function it supports. For example, contracts are often kept for a certain number of years past their expiration date, so if the e-mail message relates to a contract, it should be kept as long as the other contract records. Personnel records are often kept for a certain number of years after employment ends, while phone messages are often destroyed after the phone call is returned. The same retention requirements apply to e-mail about personnel matters and phone calls. Hence, e-mail retention requirements are not met when all e-mail is uniformly deleted after 90 days, regardless of content.

The Freedom of Information Act (FOIA)

requires that certain public records be released when requested by the public. If an e-mail message still exists (either in an active account, on a backup tape, or in a printout) when the FOIA request is received, it may be evaluated by legal staff to determine if it is eligible for release. If a township fails to examine backup tapes and active accounts when determining if a requested record exists, it may deny disclosure of a record in error. However, if e-mail messages are routinely destroyed, in accordance with an approved Retention and Disposal Schedule, they may no longer exist when the FOIA request is received. Then the only possible and legal response is that the record does not exist.

Litigation has a similar impact upon e-mail retention. Townships should immediately cease all destruction of relevant e-mail in active accounts and on backup tapes when litigation is imminent (even if a schedule authorizes the destruction of the record). If they do not, the court could find that the township destroyed evidence, which may result in a contempt of court citation or some other adverse consequence. Townships need to be aware that locating, analyzing and releasing e-mail in response to FOIA requests and litigation can be time-consuming and expensive.

*continued* ▶

## Managing Electronic Records, *continued*

E-mail can easily be retained in a lot of places, by a lot of people. It is important for employees to organize their e-mail to facilitate retrieval. It is important that township officials know who has what e-mail and ensure that employees routinely delete e-mail in accordance with Retention and Disposal Schedules. Attorneys should notify all responsible parties, including information technology personnel, to stop destroying messages once a request is received or anticipated.

Have retention requirements been met if a township prints its e-mail and then files the printout with other relevant records? There is no one-size-fits-all solution about how e-mail should be stored until its retention period expires. Storage solutions will depend upon the type of e-mail system in use and the other resources that are available. However, federal courts have ruled that a printout of an e-mail is not sufficient evidence. E-mail systems maintain certain information (called metadata) about each message that is not printed with the message, such as the real name of the person or

people tied to an e-mail address; the exact date and time a message was sent, received and opened; and who was logged into the account when the message was opened. In litigation, metadata may be deemed part and parcel of the e-mail message itself.

A township may wish to establish an e-mail policy and ensure that it is implemented, with recommendations from administrators, records managers, information technology personnel and attorneys.

### *Record Reproduction (Microfilm versus Digital Imaging)*

In 1992, the Michigan Legislature passed Public Act 116, the Records Media Act (MCL 24.401, *et seq.*). This law affects all Michigan government agencies, including townships. It states that public records may be reproduced using any of the four following technologies: photocopying, photography, microreproduction and digital images stored on "optical discs." Note: the Records Media Act does not allow agencies to store digital images on magnetic media, hard drives, Web

servers, etc. The law further mandates that Administrative Rules be promulgated to regulate the use of digital imaging technology (in effect since 1998). Record reproduction (imaging) is defined as the conversion of paper records into another format, such as microfilm or digital, while maintaining the content, context and structure of the record.

The Rules for Optical Imaging state that any public record can be digitally imaged. However, if the record has a retention period greater than 10 years, a human-readable copy (paper or microfilm) must also be retained. Furthermore, the township's Retention and Disposal Schedule must be modified to identify:

- when the reproduction is produced,
- when the original will be destroyed,
- the format of the reproduction, and
- how long the reproduction will be kept.

The rules also prescribe various technical standards that are designed to help agencies produce high-quality, authentic, digital images. The rules cite publications produced by the American National

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Standards Institute and the Association of Information and Image Management (AIIM) about these technical standards. All of the publications can be purchased from AIIM ([www.aiim.org](http://www.aiim.org)).

### Using Microfilm and Digital Imaging

Microfilm has many advantages, such as space savings, convenience of storage, retrieval and duplication, record protection, quick and complete data capture, and it is human-readable. However, microfilm can be expensive and inflexible, and many people dislike the serial nature of retrieval. Digital imaging also has many advantages, such as density of storage, multiple access, quick retrieval, and readability. However, digital imaging technology lacks technical standards, suffers from technological obsolescence (all images are hardware and software dependent), and it can be expensive. Regardless of which record retention option is selected, there are a few things that all townships should do before initiating a project.

- **Conduct a needs analysis.** Identify how the records are currently stored, organized, indexed, and accessed to determine if there is a recordkeeping problem. If so, what is the source of the problem and what is the appropriate solution? Will imaging (microfilm or digital) improve the efficiency and accessibility of the records? Attempt to identify the "hidden" costs associated with imaging (see the third bullet point below).

- **Ensure consistent record retention practices.** Does the township have and follow an approved Retention and Disposal Schedule? Has the township retained records it could have destroyed? All records to be imaged must be listed on a schedule, and they must be disposed of when the retention period is complete.

- **Prepare the documents for imaging.** Place the records in the correct order, and check for missing documents or pages. Remove fasteners like staples and paper clips, and unfold or repair items as needed. Insert appropriate targets or batch headers when microfilming, and index the records for retrieval.

- **Develop a good index.** Each document must be indexed separately if it is to be retrieved by the imaging system, while

microfilm may be indexed in a serialized fashion. The type of index will depend upon the type of record.

- **Ensure good quality control.** With microfilm this includes a technical inspection of the film for processing errors, image resolution and clarity, and film density. It also includes proofreading for order and completeness, and possibly ordering retakes. With digital images, this includes a visual quality evaluation of the index entry before images are written to disk, and routine scanning quality tests.


- **Store images in a proper environment.** Microfilm should be maintained at a constant temperature at no more than 68°F, with a relative humidity between 45-55 percent. Digital media should be maintained at a constant temperature of no more than 75°F, with a relative humidity of no more than 50 percent. Both media require an environment that is dust free, out of direct sunlight, and void of food, beverages and pests.

- **Maintain the media so the images remain accessible.** For microfilm, this means that the master negative should be stored off-site in a climate-controlled environment. The use copy should be inspected regularly for deterioration or damage; and if necessary, a new use copy should be produced from the copy negative (if there is no copy negative, use the master negative). For digital images, it is necessary to conduct an annual review of the system, and to monitor vendors for hardware and software upgrades. It will be necessary to migrate the images to new technology every few years. Since this can be very expensive, townships are advised to plan for funding. Backups of the images should be stored off-site.

It is important to note that the migration of digital images to new technology can meet or exceed the

initial cost of converting the paper to a digital format, because the old and new technologies are often incompatible, and custom programming may be required to perform the migration. Townships that are not confident the money will be available every few years to perform this migration should seriously consider microfilm imaging: the initial conversion cost is the only major expense for microfilm (new use copies are relatively cheap, and master negatives that are stored properly should last about 300 years). ■

*The State Archives of Michigan is available to assist local government agencies with specific questions about how to address important recordkeeping issues. Several guides have been posted on its Web site: [www.michiganhistory.org/archive](http://www.michiganhistory.org/archive). For more information, contact the State Archives of Michigan, Michigan Historical Center, Department of History, Arts and Libraries, 717 W. Allegan Street, Lansing, MI 48909-8240; phone: (517) 373-1408; or fax: (517) 241-1658.*



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