

SAN BERNARDINO COUNTY PROBATION DEPARTMENT PROCEDURE

Inter-Bureau Procedure #98-05-34 – Retention and Disposal of Records

Authority: Raymond B. Wingerd, Chief Probation Officer
California Penal Code Sections, 1203.10, 1203.45
Welfare and Code Sections 781, 826

Narrative:

Various sections of the Penal Code and the Welfare and Distribution Code allows the Probation Department to "destroy any reports and papers" relating to a particular case in which the jurisdiction of the Department has terminated at least five years before. Since the courts remain under the legal obligations to preserve the specified types of records on a permanent basis, there is no need for the Probation Department to keep these records in it's files.

Adult Records

All adult case files regardless whether sealed according to Section 1203.45 or not, will be pulled out of the Department closed files for the purpose of destruction five years after the termination of the jurisdiction of the Department, provided they are not falling into the category described in the special provisions under Paragraph VI A. or VI B.

Juvenile Unsealed Records

All juvenile case files that were not sealed under Section 781 of the Welfare and Institutions Code will be pulled from the closed files of the Juvenile Division to be destroyed five years after the jurisdiction of the Probation Department has terminated.

Juvenile Sealed Records

Those juvenile records (index cards, case files, accounting records, institution records and other juvenile records in this Department's possession) sealed under the provisions of the Welfare and Institutions Code will remain in the sealed files of the Department for not less than six months from the date of the sealing order, to allow sharing of information with law enforcement agencies involved in the sealing process. After the passage of one year, these records and files may be destroyed.

Institutional Records

A court order sealing the records of a minor entails the removal and destruction of records, including the index cards, in both detention and treatment facilities:

1. Files of the Juvenile Hall: All files concerning the detention of a minor, not ordered sealed, may, with the exception of the index card, be destroyed three years after the jurisdiction of the Probation Department of that minor is terminated or said minor reaches the age of 18, whichever comes first. The index card will remain in the

permanent index file of the Juvenile Hall, except when an order to seal has been received in which case this card must be sealed and may be destroyed in accordance with this policy.

2. Treatment Institutions: In absence of adverse ruling the minor's records, with the exception of the index card, may be destroyed three years after the jurisdiction of the Probation Department is terminated or said minor reaches the age of 18, whichever comes first. The index card will remain in the permanent index file of the particular institution, except when an order to seal has been received in which case this card must be sealed and may be destroyed in accordance with this policy.

Business Records

Business records of the Department Fiscal Division will be subject to the following regulations:

1. Payroll records such as source documents or time cards will be maintained for three years.
2. Accounts Payable records will be maintained for a minimum of one year after the completion of the audit.
3. Information concerning the retention of other documents and records will be secured on the individual basis as the need for disposal should arise.

Special Provisions:

1. Cases designated as being of special interest according to Procedure # _____, unless sealed, may on recommendation of the Division Director be exempt from destruction and will then remain in the files of the Probation Department.
2. Cases for Research Purposes: Certain cases may be retained either for research purposes or for their historical value. Division Directors are authorized to retain each year, from among the sealed cases, one case typical for each kind of offense handled during the year.

The criteria for these cases may be:

- a. Rare circumstances
- b. Unusual personal traits of the offender
- c. Special characteristics of the court process

Procedural Details:

1. Each division will establish a monitoring system for periodic removal of files that can be destroyed.
2. Files subject to destruction will be handed over to the Central Services Agency to be disposed of according to county regulations.
3. In all unsealed cases, the date of the removal of the file will be entered on the computer information source. This information will review within this source on a permanent basis.

Issued By: P. JOSEPH LENZ, Deputy Chief Probation Officer
Date: May 29, 1998
Revised:
Policy Reference: 3 and 10