

El Dorado County Sheriff's Office  
Destruction of Personnel files (Support Services Guidelines)

Name of File	Retention on Site	Retention in Storage
Personnel File (Active)	Indefinite	-----
Personnel File (Not employed)	3 years	3 years
Service Complaints	5 years	2 year
Internal Affairs	5 years	2 year
Background (Active)	Indefinite	-----
Background (Not employed)	3 years	3 years
Auto Accident	5 years	2 years

Authorities:

**Penal Code**

**832.5. (a) (1) Each department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, and shall make a written description of the procedure available to the public.**

(2) Each department or agency that employs custodial officers, as defined in Section 831.5, may establish a procedure to investigate complaints by members of the public against those custodial officers employed by these departments or agencies, provided however, that any procedure so established shall comply with the provisions of this section and with the provisions of Section 832.7.

**(b) Complaints and any reports or findings relating to these complaints shall be retained for a period of at least five years. All complaints retained pursuant to this subdivision may be maintained either in the peace or custodial officer's general personnel file or in a separate file designated by the department or agency as provided by department or agency policy, in accordance with all applicable requirements of law. However, prior to any official**

determination regarding promotion, transfer, or disciplinary action by an officer's employing department or agency, the complaints described by subdivision (c) shall be removed from the officer's general personnel file and placed in separate file designated by the department or agency, in accordance with all applicable requirements of law.

(c) Complaints by members of the public that are determined by the peace or custodial officer's employing agency to be frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or unfounded or exonerated, or any portion of a complaint that is determined to be frivolous, unfounded, or exonerated, shall not be maintained in that officer's general personnel file. However, these complaints shall be retained in other, separate files that shall be deemed personnel records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and Section 1043 of the Evidence Code.

(1) Management of the peace or custodial officer's employing agency shall have access to the files described in this subdivision.

(2) Management of the peace or custodial officer's employing agency shall not use the complaints contained in these separate files for punitive or promotional purposes except as permitted by subdivision (f) of Section 3304 of the Government Code.

(3) Management of the peace or custodial officer's employing agency may identify any officer who is subject to the complaints maintained in these files which require counseling or additional training. However, if a complaint is removed from the officer's personnel file, any reference in the personnel file to the complaint or to a separate file shall be deleted.

(d) As used in this section, the following definitions apply:

(1) "General personnel file" means the file maintained by the

agency containing the primary records specific to each peace or custodial officer's employment, including evaluations, assignments, status changes, and imposed discipline.

(2) "Unfounded" means that the investigation clearly established that the allegation is not true.

(3) "Exonerated" means that the investigation clearly established that the actions of the peace or custodial officer that formed the basis for the complaint are not violations of law or department policy.

### **Government Code**

26202 . The board may authorize the destruction or disposition of any record, paper, or document which is more than two years old and which was prepared or received in any manner other than pursuant to a state statute or county charter. The board may authorize the destruction or disposition of any record, paper or document which is more than two years old, which was prepared or received pursuant to state statute or county charter, and which is not expressly required by law to be filed and preserved if the board determines by four-fifths (4/5) vote that the retention of any such record, paper or document is no longer necessary or required for county purposes. Such records, papers or documents need not be photographed, reproduced or microfilmed prior to destruction and no copy thereof need be retained.

### **Fair Employment and Housing**

§12946. Retention of applications, records and files for two years; failure to retain as unlawful practice by employers, labor organization and employment agencies  
It shall be an unlawful practice for employers, labor organizations, and employment agencies subject to the provisions of this part to fail to maintain and preserve any and all applications, personnel, membership, or employment

referral records and files for a minimum period of two years after the records and files are initially created or received, RR-30 - 33 - Revised 01/01/07 or for employers to fail to retain personnel files of applicants or terminated employees for a minimum period of two years after the date of the employment action taken. For the purposes of this section, the State Personnel Board is exempt from the two-year retention requirement and shall instead, maintain the records and files for a period of one year. Upon notice that a verified complaint against it has been filed under this part, any such employer, labor organization, or employment agency shall maintain and preserve any and all records and files until the complaint is fully and finally disposed of and all appeals or related proceedings terminated. The commission shall adopt suitable rules, regulations, and standards to carry out the purposes of this section. Where necessary, the department, pursuant to its powers under Section 12974, may seek temporary or preliminary judicial relief to enforce this section.

## **El Dorado County Sheriff's Office Policy Manual**

### **1026.8 PURGING OF FILES**

Formal citizen complaints and all related files not pending litigation or other ongoing legal proceedings may be purged no sooner than five years from the underlying complaint date (Penal Code § 832.5). All other disciplinary files and investigations of non citizen initiated complaints not pending litigation or other ongoing legal proceedings may be purged no sooner than two years from the underlying complaint date (Government Code § 26202).

- (a) Each supervisor responsible for completing the employee's performance evaluation shall also determine whether any prior sustained disciplinary file should be retained beyond the statutory period for reasons other than pending litigation or other ongoing legal proceedings.
- (b) If a supervisor determines that records of prior discipline should be retained beyond the applicable statutory period, approval for such retention shall be obtained through the chain of command from the Sheriff.

(c) During the preparation of each employee's performance evaluation, all complaints and discipline should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. If, in the opinion of the Sheriff, a complaint or disciplinary action beyond the statutory retention period is no longer relevant, all records of such matter may be destroyed pursuant to resolution.