

DEPARTMENT OF JUSTICE  
OFFICE OF THE ATTORNEY GENERAL  
CAPITAL LITIGATION/FEDERAL HABEAS SECTION

PROGRAM RECORDS RETENTION AND DISPOSITION SCHEDULE

The Program Records Retention and Disposition Schedule and retention periods governing the records series listed herein are hereby approved. In accordance with the provisions of Chapters 121 and 132 of the General Statutes of North Carolina, it is agreed that the records of the

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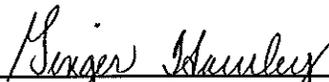
do not and will not have further official use or value for administrative, research, or reference purposes after the respective retention periods specified herein. The N.C. Department of Cultural Resources consents to the destruction or other disposition of these records in accordance with the retention and disposition instructions specified in this schedule. However, records subject to audit or those legally required for ongoing official proceedings must be retained until released from such audits or official proceedings, notwithstanding the instructions of this schedule. **Public records including electronic records not listed in this schedule or in the *General Schedule for State Agency Records* are not authorized to be destroyed.**

The

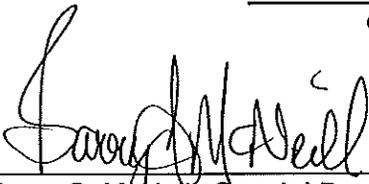
CAPITAL LITIGATION/FEDERAL HABEAS SECTION

agrees to destroy, transfer or dispose of records in the manner and at the times specified herein. This schedule is to remain in effect until superseded.

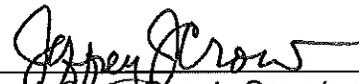
APPROVAL RECOMMENDED



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Ginger Hawley, Chief Records Officer  
Department of Justice

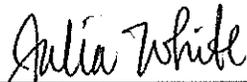


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Barry S. McNeill, Special Deputy  
Attorney General  
Capital Litigation/Federal Habeas Section



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Jeffrey J. Crow, Deputy Secretary  
Office of Archives and History

APPROVED



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Julia White, Chief of Staff  
Department of Justice



\_\_\_\_\_  
Lisbeth C. Evans, Secretary  
Department of Cultural Resources

October 2, 2003

LDR

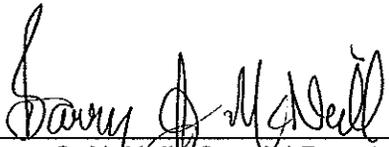
PROGRAM RECORDS RETENTION AND DISPOSITION SCHEDULE AMENDMENT

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CAPITAL LITIGATION/FEDERAL HABEAS SECTION

Amend the program records retention and disposition schedule approved October 02, 2003 by amending items 2378 and 2379 and addition of 48040 as shown on the included schedule. No other items on this schedule have been amended, added, or removed.

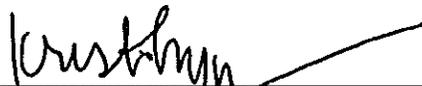
APPROVAL RECOMMENDED

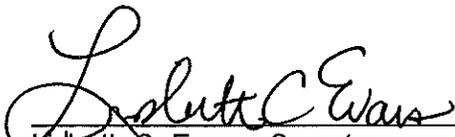
  
Scarlett Hargess, Chief Records Officer  
Department of Justice

  
Barry S. McNeill, Special Deputy Attorney General  
Capital Litigation/Federal Habeas Section

  
David Brook, Director  
Division of Historical Resources

APPROVED

  
Kristi Hyman, Chief of Staff  
Department of Justice

  
Lisbeth C. Evans, Secretary  
Department of Cultural Resources

**DEPARTMENT OF JUSTICE  
OFFICE OF THE ATTORNEY GENERAL  
CAPITAL LITIGATION/FEDERAL HABEAS SECTION**

**ITEM 2378. MASTER CASE/FEDERAL HABEAS CORPUS FILE**

Records in paper and electronic formats concerning each prisoner who has filed a federal habeas petition in the federal court system. Cases dated after 2005 year are being uploaded into the federal court's Public Access to Court Electronic Records (PACER) database system. File includes correspondence, copies of state and federal courts records, and records prepared by staff attorneys in response to the prisoners' petitions. (Each file may include petition, response, orders, transcripts, and other records regarding court actions.) (File maintenance and backup procedures are conducted by Office of the Attorney General, Information Technology (IT) and staff.) [Amended 08-02-07].

DISPOSITION INSTRUCTIONS: Print electronic records for cases closed and designated inactive prior to 2006 and interfile with related paper records. Destroy in office electronic versions of records that were printed and interfiled when reference value ends. Transfer all paper records dated through 2005 to the State Records Center 1 year after case is closed and designated inactive. Records will be held for the agency in the State Records Center 10 additional years and then destroyed. Destroy records currently stored in the State Records Center 10 years from date of records. Scan in office open and designated active cases dated after 2005. Destroy in office paper copies of scanned records after all quality control procedures have been completed. Transfer electronic records for cases considered by the section as "landmark" to the Closed Archival Federal Habeas Corpus Case File (Item 48040). Destroy in office electronic records after 10 years.

**ITEM 2379. MASTER CASE/FEDERAL HABEAS CORPUS INDEX CARD FILE**

Indices in paper and electronic formats to Master Case/Federal Habeas Corpus File (Item 2378) listing each prisoner's name, assigned case (master file) number and name of staff attorney assigned to the case. (File is separated into open and closed case files.) (Paper indices are dated from 1978 through 2006. Electronic indices are dated after 2006.) [Amended 08-02-07].

DISPOSITION INSTRUCTIONS: Destroy in office paper indices (dated 1978-2006) after 10 years. Update electronic records in office routinely. Destroy electronic indices in office 10 years after cases are closed and designated inactive and when administrative value ends.

**ITEM 14355. PRISONERS CORRESPONDENCE FILE**

Records in paper and electronic formats concerning inquiries received from prisoners (both in and out-of-state) concerning legal matters (e.g., requests for copies of general statutes, requests for review of cases, requests for review of parole rejection, etc.). File also includes replies by section attorneys. (File maintenance and backup procedures are conducted Office of the Attorney General, Information Technology (IT).)

DISPOSITION INSTRUCTIONS: Destroy in office paper records and electronic versions when reference value ends.

**ITEM 14357. CRIMINAL BRIEFS FILE**

Records concerning criminal matters presented in North Carolina Court of Appeals and North Carolina Supreme Court. Each case file includes briefs, record on appeal, and correspondence.

DISPOSITION INSTRUCTIONS: Records transferred to Master Case/Federal Habeas Corpus File (Item 2378).

**ITEM 47039. CAPITAL LITIGATION CITELIST DATABASE (ELECTRONIC) FILE**

Electronic listing of cases that have been tried and reported or opinions have been filed in the North Carolina Supreme Court, in which the defendant was tried pursuant to G.S. 15A-2000 effective June 1, 1977 and the defendant received the death penalty. File is used as a reference for writing criminal briefs. Data is input from Item 39474 Death Case Records File, North Carolina Supreme Court, Clerk of Supreme Court. (File maintenance and backup procedures are conducted Office of the Attorney General, Information Technology (IT).)

DISPOSITION INSTRUCTIONS: Update records in office routinely. Retain in office permanently.

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**ITEM 47040. CAPITAL LITIGATION CASE FILE**

Records in paper and electronic formats concerning death row inmates' appellate process. File includes records of appeal, direct appeal to executions, order of execution, criminal briefs, copies of opinions, order for appointment of counsel and stay of execution, petition for writ of certiorari, motion to proceed in forma pauperis, inmate prison records and other state and federal post conviction records. Information is entered into Capital Litigation Death Row Case Tracking System Database (Electronic) File, Item 47041 and Capital Litigation Mental Retardation Case Tracking System Database (Electronic) File, Item 47042. (File maintenance and backup procedures are conducted by the Office of the Attorney General, Information Technology (IT).) (Comply with applicable provisions of G.S. 148-74, 148-76, and Gopal v. Bounds (1972) regarding confidentiality of individual inmates records.)

DISPOSITION INSTRUCTIONS: Print electronic records and interfile with related paper records. Destroy in office electronic versions of records that were printed and interfiled when reference value ends. Transfer remaining paper records to the State Records Center 1 year after case is closed and designated inactive. Records will be held for agency in the State Records Center 10 additional years and then transferred to the custody of the Archives.

**ITEM 47041. CAPITAL LITIGATION DEATH ROW CASE TRACKING SYSTEM DATABASE (ELECTRONIC) FILE**

Electronic records concerning inmates on death row. File includes stay dates, dates of conviction, sentencing judges, defendants' trial attorneys, state post-conviction stage, and other related data. Data is input from Capital Litigation Case File, Item 47040. (File maintenance and backup procedures are conducted by the Office of the Attorney General, Information Technology (IT).) (File is used as reference to track cases in litigation.) (Comply with applicable provisions of G.S. 148-74, 148-76, and Gopal v. Bounds (1972) regarding confidentiality of individual inmates records.)

DISPOSITION INSTRUCTIONS: Update records in office routinely. Retain in office permanently.

**ITEM 47042. CAPITAL LITIGATION MENTAL RETARDATION CASE TRACKING SYSTEM DATABASE (ELECTRONIC) FILE**

Electronic records concerning capital defendants who have filed motions for imposition of a sentence of life imprisonment based on mental retardation pursuant to General Statutes 15A-2005 and 2006. File includes file dates, inmates' names, names of attorneys and district attorneys, names of psychologists, name of county, and other related data. Data is input from Capital Litigation Case File, Item 47040. (Comply with applicable provisions of G.S. 15A-1002 regarding confidentiality of mental health records. G.S. 130a-12 and 130A-374 regarding confidentiality of medical records and G.S. 148-74, 148-76, and Gopal v. Bounds (1972) regarding confidentiality of individual inmates records.) (File maintenance and backup procedures are conducted by the Office of the Attorney General, Information Technology (IT).) (File is used as a reference to track number of inmates who filed for imposition of sentence.)

DISPOSITION INSTRUCTIONS: Update records in office routinely. Retain in office permanently.

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**ITEM 48040. CLOSED ARCHIVAL FEDERAL HABEAS CORPUS CASE FILE**

Records in paper and electronic formats concerning cases or petitions that currently are, or that with reasonable certainty, are deemed by the section's attorneys as "landmark" cases or petitions. (A landmark case has at least one of the following characteristics: a statutory change resulted from the case or petition; the state or federal constitution was changed or reinterpreted as a result of the case or dispute; a significant issue in the case was decided on its merits, not simply reviewed, by the North Carolina Supreme Court or the United States Supreme Court; the controversy sustained state-wide or national interest for a prolonged period; or the result was an abrupt departure from well established past policies or practices concerning matters of significant public interest.) File includes correspondence, copies of state and federal courts records, and records prepared by staff attorneys in response to the prisoners' petitions. (Each file may include petition, response, orders, transcripts, and other records regarding court actions.) (File maintenance and backup procedures are conducted by Office of the Attorney General, Information Technology (IT) and staff.) [Amended 08-02-07].

**DISPOSITION INSTRUCTIONS:** Transfer paper and electronic records after 10 years to the State Records Center for immediate transfer to the custody of the Archives. Contact the Government Records Branch, Electronic Records Unit, prior to the transfer of electronic records.