

## Alberta Records Management Committee

### ARMC Circular #: 2006-01

### Topic: Ministers' Records Created Prior to April 1995

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#### Background

In April 1, 1995, with the revision to the Records Management Regulation and proclamation of the *Freedom of Information and Protection of Privacy Act*, legal requirements for records management in government were changed. Ministers' records were identified as either departmental, personal, or constituency. Personal and constituency records are now considered the Minister's personal records while the Minister's departmental records are part of the records management program that need to be managed according to the Regulation.

Departmental and Cabinet Records created **prior to April 1, 1995** are the property of the Minister. If a department or agency has custody of such records, the Minister or someone authorized to act on behalf of the Minister must be contacted to arrange for appropriate disposition.

#### Ministers' Records

Ministers' departmental, Cabinet, personal, constituency, and other government records that were created prior to April 1, 1995, are not subject to the government's records management program. Instructions from the Minister for the disposition of records should be obtained in writing and direction given to the Senior Records Officer advising how these records are to be disposed, as personal and constituency records may be intermingled with departmental and Cabinet records.

If Ministers decide not to treat the records as their own personal property, they should be asked to sign a waiver, allowing the department to schedule pre-April 1, 1995 records as government records. Such a waiver would include the following wording:

*"I hereby waive any interest I might have in any records created before April 1, 1995 and agree to have them treated as records of the Department of \_\_\_\_\_ and scheduled under a records retention and disposition schedule.*

This is the preferred approach and Ministers should be encouraged to follow it.

Departmental and Cabinet records provide important documentation of the policies, programs and organization of the Government of Alberta. If Ministers still decide to retain pre-April 1, 1995 departmental and Cabinet records as their personal property, they should be encouraged to donate the records to the Provincial Archives of Alberta through a private deposit

agreement. Ministers' records donated to the Provincial Archives through a private deposit agreement are explicitly exempt from the terms and conditions of the *Freedom of Information and Protection of Privacy Act*.

### Orphaned Ministers' Records

Orphaned Ministers' records created prior to April 1995 need to be treated on a case-by-case basis. Each department should continue attempts to reach the specific Minister or someone authorized to act on behalf of the Minister to ask for guidance regarding these records. If the department is unsuccessful at getting resolution, they can:

- Write a final letter indicating that if the department does not receive a response by a specific date, the department will treat the Minister's records as departmental records.
- If no response is received by the specified date, the department should seek a legal opinion regarding what is to be done with the records in question.

The department will document, as part of the legal opinion request: how many boxes there are; the attempts made at reaching the specific Minister; how many letters were written and to whom.

- The department should follow the legal advice provided within the opinion. If the legal opinion supports it, the dept may use the scheduling process to dispose of the Minister's records either by transferring them to the PAA or by destroying them.

Each set of Minister's records will need to be handled individually.

### Conclusion

For further details or clarification of the contents of this circular, please contact Linda Borys, Secretary, Alberta Records Management Committee, at [linda.borys@gov.ab.ca](mailto:linda.borys@gov.ab.ca) or (780) 427-3927.

*Original Signed by:*

*March 28, 2006*

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Tom Thackeray, Chair

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