INFORMATION BULLETIN
MANAGEMENT OF MINISTRY RECORDS REQUIRED FOR COMMISSIONS OF INQUIRY AND POLICE INVESTIGATIONS

Transferring records to Commissions of Inquiry, to the Ministry of Attorney General, and to Police Investigations

Commissions of Inquiry are established to investigate government involvement in various events of interest to the public. Usually when Commissions are established, the Ministry of Attorney General (MAG) provides secretariat support to the Commission, and thus are frequently the liaison between the Commission and other ministries. As well, police investigations often require government records to support their operations.

Ministries holding records responsive to inquiries and investigations are frequently required to identify and collect their original records, and send them to the Commission, to MAG or to police investigators either for use in hardcopy, or more frequently now, for scanning into an electronic document management and imaging system. Such systems provide effective support for research and investigation and enable fast and thorough access to records.
Original records will often remain with the Commission, with MAG or with the police for an additional period of time before being returned to their home ministry locations.

Ongoing business use

It is vital for ministries to ensure the continuing availability of records and minimal disruption in their ongoing business use. Before you transfer records to a Commission of Inquiry, to MAG, to a police investigation (or any other body) you and your ministry need to ensure that your ministry will know exactly what records have been transferred, where they originated, and where they can now be found.

This information must be systematically collected and recorded while you are locating, removing and transferring responsive records.

Many of the records that will be responsive to a Commission of Inquiry or police investigation are critical to the ongoing business of ministries. Like other government records, they are subject to the *Freedom of Information and Protection of Privacy Act*. Many are also closely connected in content and use to other records with which they originated; concurrent access to both the transferred records and those records *not transferred* is often required. In addition, proper management of records is

important to ensure compliance with the *Archives and Recordkeeping Act, 2006, S.O. 2006, chapter 34, Schedule A.*

Accordingly, it is critical to ensure that:

complete and comprehensive access to ministry records is maintained during the period when the transferred records are separated from those remaining in your ministry;

originals can be readily returned to their original locations within the various ministries once no longer needed.

The following three steps will help to meet the needs of investigators, while also ensuring that the ministry's longer-term needs for its information are protected.

1. Develop a search strategy for locating responsive records.

2. Remove and document responsive records.

3. Refile original records when they are returned to the ministry.

The following "How-To Guide" provides advice in how to carry out these three steps.

Who can I contact if I have any questions?

If you have any questions or need more information contact the Archives of Ontario Recordkeeping Support Unit at (416) 327-1600 or recordkeepin@ontario.ca.

Archives of Ontario

Ministry of Government Services

Updated January 2008

A How-To Guide for Locating and Documenting Responsive Records for Commissions of Inquiry and Police Investigations

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These steps indicate minimum requirements only. Ministries may need to develop specific procedures to supplement these general recommendations. Ministry procedures should be carefully followed when locating, removing, documenting, and transferring records.

1.   Develop a search strategy for locating responsive records

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What is a "Records Series"?

A records series consists of the total body of related records in any media which:

- *serve a particular program function (e.g., program planning and evaluation) and result from the same broad program activity (e.g., site investigations made in support of regulatory functions), or*

- *have been created in a format (such as maps or videotapes) that requires their separate storage and management (e.g., as a map or videotape collection).*

The following do not constitute records series:

- *One report forming part of a larger collection of reports.*

- *(Generally) the records relating to a particular issue, client or case, rather than the whole set of issues, clients or cases.*

- *The records "belonging" to an individual staff member ("Joe's files") rather than the total body of records used in performing a program activity.*

In many ministry branches, records series have already been identified through the records scheduling process. Elsewhere, scheduling may not have yet been completed.

The first step in identifying records series is to look for and consult records retention schedules. If schedules cannot be located for your area, consult the records management staff responsible for your ministry, or call the Archives of Ontario (416-327-1600).

Here is an example of some records series that might exist in a fictional branch charged with developing and implementing policy regarding industrial safety:

- *Policy Development Files*
- *Industrial Safety Research Files*
- *Industrial Site Inspections*
- *Safety Officer License Applications*
- *Safety Officer License Approvals*
- *Branch Director's Files*

Usually when asked to identify relevant records for a Commission of Inquiry or police investigation, it should be fairly easy to determine which records series need to be searched. Records retention schedules, the FIPPA Directory of Records, and other

lists and indexes that ministry records management staff hold, are key sources for identifying relevant series.

If files (both paper and electronic) have been created and maintained appropriately, properly labelled, stored in a logical sequence, and kept up to date, then finding the information sought should be relatively straightforward.

> *Remember that in looking for responsive records you will need to search both the electronic and paper records in your area. As well, do not forget about records that have been transferred from your branch to off-site storage or the Archives of Ontario.*

2.   Remove and document responsive records

When removing responsive records, two processes are important:

i. Leaving a notice within the original files to show which records have been removed and in which boxes they can now be found.

ii. Collecting the information you will need to create an inventory or index of the records to be transferred to the Commission, to MAG, or to a police investigation.

The information you will need to provide is indicated in the sections that follow. *Additional information specific to your ministry may also be needed.*

a) Substituting photocopies

As a further precaution, the best way to ensure that no break in business documentation occurs is to substitute (wherever practical) photocopies of records within the source files as originals are removed. This will ensure that the complete body of information remains intact within ministry branches. Ministries should remember that original records may be required by Commissions of Inquiry or police investigations for quite a long time. Furthermore, while the Archives of Ontario endeavours to advise Commissions of Inquiry and police investigations on the proper care and handling of records, sometimes records are reordered and may not be returned to ministries in their original order. *Temporarily replacing original records with photocopies is strongly recommended.*

b) Inserting separation notices

Separation notices should be placed in the files, file drawers or Records Centre boxes at the points from which original documents or files have been removed. Separation notices are out cards or simply sheets of paper identifying:

the file code (where available),

file title,

file date(s),

the box into which the records have been packed,

name/initials of person removing,

date of removal,

reason for removal.

A single separation notice can be used to list sequential files where they are filed one after another in the cabinets or boxes.

In cases where a single document or a number of documents are removed from a file and the file left in the cabinet or box, the separation notices should identify the document titles and, if known, the documents' dates and authors.

As an added precaution to facilitate eventual refiling, a copy of the separation notice can be placed with the file or documents that have been removed.

See **Appendix A** for a sample Separation Notice.

c) Creating inventories

When sending records to a Commission, MAG, or a police investigation, it is important that the sources of the records be carefully documented so that their origins can be identified after they are transferred (and possibly scanned). This requires the creation of inventories, copies of which should be sent with the boxes and copies of which should be left in the branch.   (Some ministries may call these inventories "indexes" or "box listings.") Inventories add value to the records by establishing for the Commission a clear link with their specific source.

Moreover, it will be difficult to refile the records after they are returned to the ministry if an inventory has not been prepared. Many records may later become impossible to find.

Government records form groupings that are termed "records series" (see box above). At a minimum, when removing records from file drawers or boxes, inventories should be created for each records series identifying:

the ministry,

the program area (including section title if appropriate) in which the records were found,

the physical location where the records were found (room number, file cabinet number, etc.),

a clear, descriptive title that indicates the contents of the series or the functions it performs (use the title from the records schedule, where available, or records transfer list if the records have been called in from the Records Centre),

(where records have been scheduled) the records schedule number, or if a post-1997 schedule covering two or more series, the schedule number and individual series number.

The preceding information should be copied onto inventory sheets prior to boxing the records. Completion of the inventories will wait until the records are boxed.

See **Appendix B** for a sample inventory form.

Electronic Records

Providing electronic records to a Commission or Police Investigation should be undertaken in consultation with Commission/Investigation staff to determine suitable file formats (e.g., MS Word) and transfer media (e.g., CD-R). Once format is determined, the electronic records from each program area should be placed in a single electronic folder, clearly labelled with the program area name. Add a text file in the root directory, labelled "Readme" or "Summary", which summarizes the contents of the electronic records, including ministry name and program area, any file naming conventions, file classification codes, relationships to paper records, and records retention schedule information. For large or complex bodies of electronic records, this text file could provide general information with more specific information detailed in a similar file within each program area folder.

Where it is difficult to determine to which records retention schedule the selected electronic records belong, add information about the system (e.g., the system name and the office within the program area responsible for it) to the summary file described above.

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d) Packing and labelling boxes

When packing boxes, files should be placed into the boxes in the order in which they were stored on shelves and in file cabinets. This will help in returning records to their proper place within the source files later. Be sure to pack boxes loosely enough to facilitate easy retrievals and re-filing. When the box is full, there should be enough room on either side of a file for you to easily insert your hand. If the records requested are oversized and do not fit into a standard size box, contact the Archives of Ontario for instructions on how to prepare them for transfer.

The Commission of Inquiry or Police Investigation should provide direction on how the records and boxes should be labelled. However, in the absence of such direction, each box into which records are placed should be carefully labelled showing, at a minimum:

the box number,

the ministry,

the program area (including section title if appropriate),

the series title or, if the box contains printouts of electronic records not matched to series, the source of these printouts (such as system name or user ID's and/or system drive, identified as such),

the records schedule number if available,

all additional information required by ministry-level procedures.

e) Finishing the inventories

With records boxed, the inventories can now be completed. For each box add the following:

the box number,

the individual files packed in the box identified by file title, file date(s) and where available, file code,

where records have been called in from the Records Centre, the Records Centre box number and transfer number from the Records Centre transfer list,

all additional information required by ministry-level procedures.

Where an individual document or series of documents is removed from a file, that file should be identified along with the individual document titles and the documents' author and date, if known.

The ministry should retain a copy of the inventory. Another copy of the entire inventory should be included in the first box before being sent off-site. In addition, copies of the relevant pages (including the ministry, branch, series title and schedule number) can be placed in each box.

3.   Refile original records when they are returned to the ministry

Once the Commission, MAG, or the police investigation is finished with the original records, the records should be returned to their proper locations, either at the Records Centre or within ministry offices. This process will be simple if the procedures outlined above have been followed.

Working from the inventories, ministry staff can easily locate the original filing cabinet or box, and return the original to its proper place within the series. Where photocopies have been substituted, these can be removed and destroyed. Where separation notices have been inserted, these can be removed and destroyed.

If in the interim, series from which files were pulled have been transferred from offices to off-site storage or to the Archives, advice is available from the Recordkeeping Support Unit at the Archives of Ontario to ensure the proper replacement of the records.

For more information, contact the Archives of Ontario Recordkeeping Support Unit at (416) 327-1600 or recordkeeping@ontario.ca

Be sure to retain the inventories in case records are called back by the Commission, MAG or the police, or to support any possible future litigation. If inventories were not created at the outset, it is wise to create an inventory of returned records before attempting to refile them.

Archives of Ontario
Ministry of Government Services

Updated September 2007

APPENDIX A

SAMPLE SEPARATION NOTICE

Out cards for files are available from any office products vendor. Alternatively, offices can create their own separation notices using regular sheets of paper. The following is a useful format where individual documents must be removed from files; however, each ministry may wish to customize its own data gathering form.

DOCUMENT SEPARATION NOTICE

Ministry:

Division/Branch:

Series title:

File code:

File title:

Date(s) of file:

Document description:

For more information, contact the Archives of Ontario Recordkeeping Support Unit at
(416) 327-1600 or recordkeeping@ontario.ca

APPENDIX B

SAMPLE INVENTORY FORM

There is no set format for completing records inventories. The following is a useful format, but each ministry may wish to customize its own data gathering form.

Inventory of Records Sent to [x] Commission of Inquiry Page [x] of [x]

Ministry:

Program Area:

Section/Unit:

Series Title:

Box #	File Code	File Title	Date(s)	Schedule #	Original Location*

*Original location may be file drawers within a program area office, or may be the Records Centre transfer and box numbers.

For more information, contact the Archives of Ontario Recordkeeping Support Unit at (416) 327-1600 or recordkeeping@ontario.ca