



State Records Act 1997

Operational Records Disposal Schedule

**Office of the Director of Public Prosecutions
(ODPP)**

RDS 2016/08 Version 1

Effective Date: 10 October 2017 to 31 October 2027

Approved Date: 10 October 2017

Approved by SRC



Office of the Director of Public Prosecutions (ODPP)

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Preamble

Purpose of the Schedule

This Operational Records Disposal Schedule (RDS) authorises arrangements for the retention or destruction of records in accordance with Section 23(2) of the *State Records Act 1997*.

Application of the Schedule

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Approved Date: 10 October 2017

Effective Date: 10 October 2017 to 31 October 2027

Authorisation by State Records

This authorisation applies only to the disposal of the records described in the Schedule.

State Records' Contact Information

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Disposal of Official Records

Legislation

Section 23(1) of the *State Records Act 1997* states that an agency must not dispose of official records except in accordance with a determination made by the Manager [Director] of State Records with the approval of the State Records Council.

Section 23(2) states:

‘If an agency requests the Manager to make a determination as to the disposal of official records, the Manager must, as soon as practicable:

- (a) with the approval of the [State Records] Council, make a determination requiring or authorising disposal of the records in a specified manner; or
- (b) make a determination requiring delivery of the records into the custody of State Records or retention of the records and later delivery into the custody of State Records.’

The contents of an RDS, once the approval process is complete, constitute a determination within the meaning of the *State Records Act 1997*.

Functions of the Schedule

An RDS plans the life of these records from the time of their creation to their disposal. It describes the records created and/or controlled by ODPP, the disposal sentence specifying whether they are to be retained as archives or destroyed, and when this should occur.

This Operational Records Disposal Schedule has been prepared in conjunction with staff from ODPP to determine the records which need to be kept because of their long term value and to enable the disposal of records once they are no longer needed for administrative purposes. The assessment of the records takes into account their administrative, legal, evidential, financial, informational and historical values. The appraisal of the records is in accordance with the State Records’ policy as documented in *Appraisal of Official Records – Policy and Objectives* - available from State Records’ website (www.archives.sa.gov.au).

The Schedule complements the General Disposal Schedules (GDS) that are issued by State Records to cover housekeeping and other administrative records common to most State Government agencies.

Using the Schedule

The Schedule applies only to the records described within it.



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Layout

The Schedule is laid out as follows:

- Item Number:** Numbering in the Schedule is multi-level:
- Functions have single numbers (e.g. 1.)
 - Activities and/or processes have two-level numbers (e.g. 1.1)
 - Disposal classes have three-level numbers (e.g. 1.1.1)
- Function:** The general functions are shown in 12 point bold Arial upper case at the start of each section. (e.g. **CASE MANAGEMENT (PROSECUTION)**)
- Activity/Process:** The activities and processes relating to each function are shown in 12 point bold Arial sentence case (e.g. **Dishonesty Offences**).
- Description:** Descriptions are in three levels ranging from broad functions to specific disposal classes:
- definitions of functions are shown at the start of each section in bold (e.g. **The function of managing cases associated with the bringing of criminal proceedings against a person in a court of law. Also includes appeals, opinions, adjudications, bail reviews, and non-parole period applications relating to the prosecution case.**)
 - definitions of activities are located adjacent to the activity title in italics e.g. *Criminal prosecutions relating to unlawful possession, theft, deception, money laundering, dishonest dealings with documents, dishonest manipulation of machines, dishonest taking advantage of malfunction of machines, and dishonest exploitation of position of advantage.*
 - descriptions of each disposal class are arranged in sequence under the activity definitions.
- Disposal Action:** Disposal actions relate to the disposal classes arranged under the activity descriptions. The status of the class is either PERMANENT or TEMPORARY with a disposal trigger and retention period given for all temporary records.

Retention Period of the Record

The Schedule is used to sentence records. Sentencing involves applying the record retention periods within the RDS to the records of the ODPP. Decisions are made using the Schedule



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about whether records are to be retained and, if so, for how long, or when they are to be destroyed.

Retention periods set down in the Schedule are minimum ones and the ODPP may extend the retention period of the record if it considers there is an administrative need to do so. Where the ODPP wishes to retain records for substantially longer periods it should request that the Schedule be amended to reflect this requirement.

Custody and Transfer of the Record

Permanent Records

Section 19 of the *State Records Act 1997* includes provisions for the transfer of custody of an official record:

- a) when the agency ceases to require access to the record for current administrative purposes or
- b) during the year occurring 15 years after the record came into existence - whichever first occurs

Official records that have been sentenced as permanent, in accordance with an approved disposal schedule, are required to be transferred to State Records.

Agencies with valid reasons to retain permanent records for longer than 15 years should apply in writing to Director [Manager], State Records requesting either a postponement or an exemption from section 19.

It should be noted that postponement or exemption are only granted in exceptional circumstances.

Temporary Records

The custody of official records that have been sentenced as temporary is the responsibility of agencies. A policy and standards framework for the management and storage of temporary value official records has been established by State Records as documented in *Records of Temporary Value: Management and Storage: Standard and Guidelines (May 2002)*. ODPP needs to comply with these policy documents - available from State Records' website (www.archives.sa.gov.au).

The custody of official records on networks or hard drives is also the responsibility of agencies. The ODPP needs to ensure that records in electronic format remain accessible to authorised users for the duration of the designated retention period. State Records is, however, currently examining options for the transfer of permanent value electronic records in digital form to its custody.



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Destruction of Temporary Records

Temporary records can only be destroyed with the approval of the Chief Executive or delegate in accordance with the Destruction of Official Records Guideline issued by State Records of South Australia. Failure to comply with this direction falls under Section 17 of the State Records Act 1997 and may be considered by ICAC as misconduct or maladministration.

Prior to destruction, the following General Disposal Schedules (GDS) need to be consulted:

- ***GDS 16 Impact of Native Title Claims on Disposal of Records*** to ensure records which are relevant to native title claims in South Australia are identified and preserved.
- ***GDS 27 for Records Required for Legal Proceedings or Ex Gratia Applications Relating to Alleged Abuse of Former Children Whilst in State Care*** to ensure the preservation of official records that may relate to the rights and entitlements of the individuals who present a court claim or apply for an ex gratia payment and of the State Government in defending or processing those claims and applications.
- ***GDS 32 for Records of Relevance to the Royal Commission into Institutional Responses to Child Sexual Abuse*** to ensure that records of relevance to the Royal Commission are protected and available for the purposes of the Royal Commission and any subsequent actions involving the South Australian Government as well as for future reference and accountability purposes and to protect the rights and entitlements of stakeholders.

When official records, in the ODPP's custody or housed in secondary storage, are due to be destroyed in accordance with the provisions of this or other disposal determinations, the agency destruction approval process is to be used.

The ODPP must ensure that all destruction is secure and confidential and that a certificate confirming destruction is provided by private contractors.

Standard methods for destruction of paper are shredding, pulping or other means that are environmentally friendly.

Records in electronic format must only be destroyed by reformatting or rewriting to ensure that the data and any "pointers" in the system are destroyed. "Delete" instructions do not offer adequate security as data may be restored or recovered.

The ODPP should keep their own record of all records destroyed, noting the relevant disposal authority. Proof of destruction may be required for legal purposes, or in response to FOI applications. When records are destroyed systems that control them should also be updated by inputting destruction dates and relevant disposal authorities.

Review

State Records' disposal schedules apply for a period of ten years. Either the ODPP or State Records may propose a review of the Schedule at an earlier time, in the event of changes to



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functions or procedures that affect the value of the records covered by the disposal authority. Reviews are especially necessary if there is vast administrative change that affects the currency and use of the records and/or the records are dispersed to other agencies.

The State Records Council needs to approve all amendments to the Schedule. Officers using the Schedule should advise State Records of any necessary changes.

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Context Statement

Context of the Agency Covered by the Schedule

ODPP History and Background¹

Prior to the creation of the ODPP, major indictable crime offences were prosecuted by the Crown Prosecutor’s Office, under the guidance of the Attorney-General’s Department. The position of the Crown Prosecutor was established on 1 November 1917, with early appointees paid a sessional rate for time spent in court, and granted the right to engage in private practice at the bar. It was not until the late 1920s that the Crown Prosecutor became a salaried officer. The first Assistant Crown Prosecutor was appointed in 1928 and the office mounted prosecution before the Supreme Court sitting in Adelaide and in its circuit sessions in Mount Gambier and Port Augusta; the Central District Criminal Court; the Northern District Criminal Court; and the South Eastern District Criminal Court.

The ODPP was established through the *Director of Public Prosecutions Act, 1991* and came into operation on 6 July 1992. South Australia was the last State or Territory in Australia to establish an independent Director of Public Prosecutions (DPP).

The Act enabled the adoption of an independent statutory prosecuting authority. The ODPP replaced the Office of the Crown Prosecutor, a division of the Attorney-General’s Department. The proclaimed statutory independence of the DPP was made subject to the ability of the Attorney-General to give directions, albeit after consultation. The prosecution function in the criminal justice system needs to be free from any actual or perceived political influence.

In 1992, the ODPP was staffed by about 40 legal and administrative staff.

In 1993-94, a Committal Unit was established by the ODPP to undertake committal proceedings of major indictable matters in the Magistrates Courts.

In 1995, the ODPP employed its first social workers to support victims of crime, their immediate families and witnesses for the prosecution in matters dealt with by the ODPP.

A dedicated Confiscations Section was created within the ODPP in 1999 due to legislative changes. This section became responsible for undertaking the procedures necessary to restrain and confiscate tainted property, including proceeds of crime in South Australia.

¹ Lawmakers and Wayward Whigs: Government and Law in South Australia, 1836-1986 – Alex Castles and Michael Harris (Wakefield Press, Adelaide 1987)



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After a change in legislation in 2000, the ODPP commenced prosecuting offences of Serious Criminal Trespass. This was a result of an increase in the number of violent home invasions occurring.

As of 2017, the ODPP comprises some 140 legal and administrative staff and witness assistance officers. The increase in staff over the years reflects the complexity and number of matters handled by the ODPP.

ODPP Role and Function

The functions of the DPP are specified in the *Director of Public Prosecutions Act 1991*.

They are to:

- lay charges of indictable offences against the law of the State
- prosecute indictable or summary offences against the law of the State
- claim and enforce, either on behalf of the Crown or other persons, civil remedies that arise out of, or are related to, prosecutions commenced by the DPP
- take proceedings for or in relation to the confiscation of profits of crime
- institute civil proceedings for contempt of court
- enter a *nolle prosequi* or otherwise terminate a prosecution in appropriate cases
- grant immunity from prosecution in appropriate cases
- exercise appellate rights arising from proceedings of the kind referred to above
- carry out any other function assigned to the DPP by any other Act or by regulation under this Act
- do anything incidental to the foregoing

To summarise, the ODPP is responsible for prosecuting people who have been charged under South Australian laws with serious indictable offences. The ODPP also conducts summary trials in complex or sensitive matters and appeals from the Magistrates Court on indictable offences.

Matters typically referred to the ODPP for prosecution in the courts include:

- murder, attempted murder and manslaughter
- serious drug offences
- serious sexual offences
- mental impairment
- organised crime
- violent assaults and aggravated robbery
- large scale and serious fraud offences
- serious driving offences such as causing death by dangerous driving

The majority of prosecutions are referred to the ODPP by the South Australian Police. From a day to day operational perspective, the ODPP:

- gives advice to police on whether sufficient evidence exists to lay a charge and what that charge should be



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- reviews cases referred by the police for prosecution to ensure there is sufficient evidence
- determines the charges where a decision is made to prosecute
- determines whether or not to prosecute
- supports victims, prosecution witnesses and their immediate family, keeping them informed about the prosecution processes

ODPP Structure Description

The DPP is a statutory officer, independent of the Attorney General's Department, who initiates and conducts criminal prosecutions in the Magistrates, District and Supreme Courts of South Australia. The DPP also initiates appeals in the Full Court of South Australia and the High Court of Australia.

The objective of the ODPP is to provide the people of South Australia with an independent and effective criminal prosecution service that is timely, efficient and just. The DPP pursues this objective through the application of the DPP's guidelines. The benefit to the South Australian community is the provision of an effective prosecution service which is essential to the rule of law. Whilst the ODPP has judicial independence, its administration is part of the Attorney-General's Department.

The DPP has the responsibility for the overall management of the ODPP. The DPP is assisted in this by the Deputy Directors. The ODPP structure represents the functional areas of solicitors, prosecutors, witness assistance officers and administrative support staff.

The Solicitor Section provides solicitor services on all cases conducted by the ODPP. These services include legal advice, committals, arraignments, and all matters in the pre-trial stage and after sentencing submissions. The Solicitor Section comprises six teams, each led by a Senior Solicitor. The Senior Solicitors report to the Managing Prosecutor.

The Counsel Section provides services to the ODPP in trials, appeals and complex legal arguments. The prosecutors appear in the Magistrates District and Supreme Courts for trial and in the Full Court of the Supreme Court South Australia and High Court of Australia for appeals. Magistrates Appeals are also conducted before single judges of the Supreme Court.

The Witness Assistance Service provides services to victims and witnesses. The Witness Assistance Officers report through the Manager Witness Assistance to the Director, Business Services.

The Business Services section of the ODPP is managed by the Director, Business Services. The section comprises administrative teams including the Witness Assistance Service, law clerks, secretaries and administrative staff. Overall the section is responsible for human resource management, financial services, information management, work health and safety, administrative policy and procedures, procurement, records management, risk management and a range of other specific legal support functions such as data entry, secretarial, reception and rounds delivery.



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The Law Clerks and Data Entry Clerk in the ODPP are managed by the Law Clerk Manager and two Senior Law Clerks (Team Leaders). Secretarial and other administrative staff are managed by the Administration Co-ordinator.

The strategic management of the ODPP is governed by the Executive Committee.

The Executive Committee consists of the DPP, Deputy Director – Solicitor, Deputy Director – Counsel, Managing Prosecutor and the Director, Business Services. The Executive meets monthly and has overall responsibility for the establishment, implementation and evaluation of the strategic direction of the ODPP. It has final responsibility for policy and will also determine the appropriate response to the important legal issues affecting the ODPP.

Predecessor Agencies

- Crown Prosecutor’s Office (GA373 – 1917 to 1992) in the Attorney-General’s Department was replaced in July 1992 by the ODPP pursuant to the *Director of Public Prosecutions Act 1991*.

Successor Agencies

There are no successor agencies.

Legislation

Legislation administered by the Attorney General’s Department related to ODPP:

- *Director of the Public Prosecutions Act 1991*

Legislation not administered by the ODPP but which impacts:

- *Bail Act 1985*
- *Controlled Substances Act 1984*
- *Criminal Assets Confiscation Act 2005*
- *Criminal Law (Forensics Procedures) Act 1998 (ceased)*
- *Criminal Law (Forensics Procedures) Act 2007*
- *Criminal Law (Sentencing) Act 1988*
- *Criminal Law Consolidation Act 1935*
- *District Court Act 1991*
- *Evidence Act 1929*
- *Firearms Act 1977 (ceased)*
- *Firearms Act 2015*
- *Legal Practitioners Act 1981*



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- *Listening and Surveillance Devices Act 1972*
- *Magistrates Court Act 1991*
- *Public Finance and Audit Act 1987*
- *Summary Offences Act 1953*
- *Summary Procedures Act 1921*
- *Supreme Court Act 1935*
- *Telecommunications (Interceptions and Access) Act 1979 (Commonwealth Act)*
- *Telecommunications (Interception) Act 2012 (South Australian Act)*
- *Victims of Crime Act 2001*

Context of the Records Covered by the Schedule

Coverage of RDS 2016/08

This RDS provides comprehensive coverage for the ongoing and closed operational records of the ODPP (and its predecessor agency).

- GRS1870 – Criminal Briefs heard before the Adelaide Supreme Court, annual single number series – Crown Prosecutors Office, later ODPP
- GRS1871 – Criminal Briefs for cases heard before the Mount Gambier Court
- GRS1872 – Criminal Briefs for cases heard before the Port Augusta Court
- GRS1873 – Criminal Briefs for cases heard before the Central District Court, annual single number series – Crown Prosecutors Office, later ODPP
- GRS1874 – Criminal Briefs for cases heard before the Northern District Court – Crown Prosecutors Office, later ODPP
- GRS1875 – Criminal Briefs heard before the South Eastern District Court – Crown Prosecutors Office, later ODPP
- GRS3072 – Major Crime Briefs for cases heard before the Adelaide Supreme Court – ODPP and predecessors
- GRS4640 – Advice / legal opinion files
- GRS5136 – Committal Unit files
- GRS16008 – Registers of prisoners for trial at the criminal sittings at the Supreme Court at Adelaide
- GRS16009 – Registers of prisoners for trial at the Port Augusta Circuit Court



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- GRS16010 – Registers of prisoners for trial at the Mount Gambier Circuit Court
- GRS16011 – Prisoners for trial or sentence at the criminal sittings of the Central District Court at Adelaide
- GRS16012 – Prisoners for trial or sentence at the Northern District Circuit Criminal Court at Port Augusta
- GRS16013 – Prisoners for trial or sentence at the South Eastern District Court – Crown Prosecutors Office, later ODPP

RDS 2016/08 does not cover records already in the custody of State Records as part of Government Record Group GRG57. These records have been deemed permanent in accordance with a disposal determination made for all GRGs by the Manager [Director] of State Records and approved by the State Records Council on 9 November 1999.

Related Series Affected by RDS 2016/08

There are no related series affected by this RDS.

Complementary Schedules to RDS 2016/08

There are no complementary Disposal Schedules to use with this RDS.

Existing Disposal Schedules Superseded by RDS 2016/08

- RDS 2006/07 Version 1 Office of the Director of Public Prosecutions 13/06/2006 – 30/06/2016

Records Structure within ODPP

The agency maintains a centralised records structure which is controlled by records management personnel. This is a physical records management system, currently managed by the ODPP data base ‘Case Tracking’, RecFind, spreadsheets and Microsoft Word documents. Previous ODPP data bases ‘Crimes’ and ‘FileMaker Pro’ as well as a card catalogue system and ledger books store information about records prior to 2006.

Case Tracking

‘Case Tracking’ is the current database used by the ODPP. It was implemented in 2006. Files are received in hard copy from the South Australian Police, and each file has a unique apprehension number already assigned. The Data Entry Clerk will create the record of the file in ‘Case Tracking’ which assigns it a unique system generated number. A physical file is then created. Once a matter is listed in court it is allocated a court file number for each court it is listed in i.e. Magistrates, District and Supreme Courts. All of these numbers are recorded in both ‘Case Tracking’ and the physical file. During the change from ‘Crimes’ to ‘Case Tracking’, only current files were migrated. A field was added that showed the date converted. Inactive records remained in ‘Crimes’ and read-only access is available.



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Crimes

'Crimes' is a Microsoft Access database used by the ODPP from 1997 – 2006 prior to 'Case Tracking'. Each file created in 'Crimes' was assigned a unique system generated number. The apprehension number provided by the South Australian Police and the court file number were also recorded in 'Crimes'.

FileMaker Pro

'FileMaker Pro' was a database used by the ODPP from 1995 – 1997 prior to 'Crimes'. Each file created on 'FileMaker Pro' was assigned a unique system generated number. The apprehension number provided by the South Australian Police and the court file number were also recorded in 'FileMaker Pro'.

Card Catalogue

Prior to 'FileMaker Pro' the ODPP used a card catalogue system to maintain a record of files. The card system was in use from 1985 – 1997 and did not record any identifying numbers, only the accused's name and endorsements from court appearances. The cards were stored in alphabetical order.

Ledger Books

Ledger books were used to maintain a record of matters prior to 1988. There was some overlap where both the ledger books and card catalogue system were used at the same time. The ledger books contained a list of matters in alphabetical order by the accused's name and the court file number was also recorded.

RecFind

No records are managed in RecFind, it is only used to log retrievals from offsite storage.

The implementation of a new case management system 'Resolve', expected to be operational in late 2017, along with the sentencing periods set out in this RDS will necessitate a change in the arrangement of the records. Files are expected to be arranged and stored by offence type, retention period and file type (e.g. Prosecution, Mental Impairment, Habitual Sexual Offenders, Drug Court, Confiscations, Bail Reviews, Breach Bond and Witness Assistance Service). Each group of files will be kept in alphabetical order by the accused's name and grouped by year.

An example of file numbering used in the ODPP includes:

- Supreme Court Number – SCCRM-17-1234
- District Court Number – DCCRM-17-1234
- Police Apprehension Number – 17/X12345
- Case Tracking System Number – 2017/0001234
- Resolve System Number – C17/12345



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Broad Description and Purpose of the Records

The records detailed in this document are related to Prosecutions, Confiscations, Enforcements, Offender Management and Witness Assistance Services files for proceedings brought by the Crown in criminal cases before the Magistrates, District and Supreme Courts completed on or after 1 November 1917.

Functions and Activities Documented by the Records

The RDS covers the operational case management functions of the ODPP including Prosecution, Confiscation, Enforcement, Offender Management, and Witness Assistance Services.

Activities relating to these functions cover a range of materials such as Court Applications, evidentiary documentation and internal and external legal correspondence relating to the prosecution of criminal matters. The records span a range of offences (dishonesty, driving, drug, firearm, offences against good order, offences against the person, and sexual) and social work support services to victims of crime and relevant interested parties.

Arrangement of the Records

The data base 'Case Tracking' maintains an electronic record of physical files created in the ODPP. The ODPP does not currently have an EDRMS but from mid to late 2017 the EDRMS 'Objective' will be implemented along with a new case management data base 'Resolve'. These new systems will be used to control and arrange records and information in the ODPP.

Currently files are arranged by the Court the matters are heard in (e.g. Magistrates, District and Supreme Courts) in alphabetical order by the accused surname. File types stored together include Prosecution, Breach Bond, Bail Review, Confiscation, Non Parole Period, Drug Court, Mental Impairment, Habitual Sexual Offender, and Witness Assistance Service.

The implementation of these systems along with the sentencing periods set out in this RDS will necessitate a change in the arrangement of the records. Physical files will be arranged and stored by offence type, and file type. Each group of files will be kept in alphabetical order by the accused's name and grouped by year.

Agency Creating the Records

ODPP that administers the records covered by this RDS also created them.

Agency Owning or Controlling the Records

ODPP that administers the records covered by this RDS also controls or owns them.

Date Range of the Records

Records Date Range: **1 November 1917 to Ongoing**



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Volume of the Records

The ODPP produces approximately 5500 new records (cases) per annum as at the creation of this RDS. Active files are allocated to individual solicitors who store them in their office.

There are approximately 805 linear metres of permanent value records stored at State Records. These include records under the predecessor agency 'Crown Prosecutor's Office' relating to criminal briefs and registers of prisoners for trial, and records under the current agency, the ODPP, relating to criminal briefs, committal unit files and advice or legal opinion.

There are approximately 2250 linear metres of temporary value records stored at the Attorney-General's Department approved temporary records storage provider, TIMG. These are a mix of case related records and corporate/administrative records.

Special Custody Requirements

There are no special custody requirements.

Special Storage Requirements

There are no special storage requirements.

Issues Not Mentioned Previously

There are no issues that have not already been mentioned.

Comments Regarding Disposal Recommendations

Permanent Records Rationale

The records nominated for permanent retention in this schedule meet the criteria for ongoing value as set out in Objective 5 of the State Records 'Appraisal of Official Records: Policy and Objectives'. These records consist of prosecution briefs, applications, offender management and support services for major criminal cases in relation to:

- Murder, manslaughter, driving offences resulting in death, criminal neglect resulting in death, and abuse of public office (including all related cases to the criminal file i.e. where the offender has been declared mentally impaired or a habitual sexual offender, or where a case has been referred to the Witness Assistance Service),
- Matters that have attracted extensive media coverage (including all related cases to the criminal file)
- Matters where there is a substantial public interest involvement (including all related cases to the criminal file).



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Matters listed under this category may be required in relation to further criminal prosecutions, appeals or applications at some later stage. Thus these records (items 2.1.1, 3.1.1, 3.2.1, 3.2.2, 3.3.1, 3.4.1, 3.5.1, 3.5.2, 3.6.1, 3.6.2, 3.7.1, 4.1.1, 4.2.1 and 5.1.1) are of enduring value to the ODPP.

Temporary Records Rationale

Items listed in the schedule below (1.1.1, 1.1.2, 2.1.2, 2.1.3, 2.1.4, 3.1.2, 3.1.3, 3.1.4, 3.2.3, 3.3.2, 3.4.2, 3.5.3, 3.6.3, 3.6.4, 3.7.2, 4.1.2, 4.1.3, 4.1.4, 4.2.2, 5.1.2, 5.1.3 and 5.1.4) have been classified as temporary as they do not meet any of the criteria outlined in objectives 1 to 5 in the State Records 'Appraisal of Official Records: Policy and Objectives'.

Other Disposal Considerations

There are no other considerations for or against the retention or destruction of records affected by this RDS.

Disposal Recommendation Effect on Related Records

There are no related records affected by the disposal recommendations in this RDS.

Alternative Record Formats

There are no alternative record formats.

Impact on Native Title Claims

There is no discernible relevance to Native Title Claims.

Indigenous Considerations

The determinations within *RDS 2016/08* are consistent with Recommendation 21 of the *National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*.

The principles outlined in *GDS 16*, relating to Native Title claims, have also been considered in the development of this Schedule.

RDS 2016/08 meets all cultural, historical, legal and administrative requirements.

All documents considered relevant to native title in South Australia must be checked for actual relevance with the Native Title Section of the Crown Solicitor's Office before being disposed of.



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Scope Note

Records Covered by this Schedule

This RDS 2016/08 applies to the ongoing and closed operational records of the ODPP.

How to Apply this Schedule

Use in conjunction with GDS

This Schedule should be used in conjunction with **GDS 30**, as amended, or its successor. Cross-references to the **GDS 30** are included in this Schedule where appropriate.

To identify records that may be potentially relevant to native title claims, please refer to guideline **Identifying documents which may be relevant to Native Title** attached to **GDS 16**. Where records sentenced for temporary retention are identified as having potential relevance to a native title claim, they need to be retained until 31 December 2024.

To identify records that may be potentially relevant to **Legal Proceedings or Ex Gratia Applications Relating to Alleged Abuse of Former Children Whilst in State Care**, please refer to **GDS 27**. Where records sentenced for temporary retention are identified as having potential relevance, they need to be retained until 31 December 2020.

To identify records that may be potentially relevant to the **Royal Commission into Institutional Responses to Child Sexual Abuse**, please refer to **GDS 32**. Where records sentenced for temporary retention are identified as having potential relevance, they need to be retained until 31 December 2023.

Use in conjunction with, or complementary to, other RDS

This Records Disposal Schedule does not complement any existing schedules.

Other RDS superseded by RDS 2016/08

- RDS 2006/07 Version 1

Re-sentencing of records where schedules are superseded or particular entries within a schedule are superseded

The ODPP will review and re-sentence the records whose retention periods have altered.

Records excluded from RDS 2016/08

There are no records excluded from cover by this RDS.



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Application to records in all formats

RDS 2016/08 applies to records in all formats, including databases and other electronic records. The ODPP is required to ensure that records remain accessible for the duration of designated retention periods.

Interpretation of the Schedule

Minimum retention periods

Retention periods for temporary records shown in *RDS 2016/08* are minimum retention periods for which records need to be retained. It is at the discretion of the ODPP as to whether records are kept for longer than the minimum period.

Acronyms

- DPP – Director of Public Prosecutions
- ODPP – Office of the Director of Public Prosecutions

Definitions of terms specific to RDS 2016/08

- Brief – A summary prepared by a solicitor for a barrister, containing all the information and documents relevant to the presentation of a case in court.
- Committal – Criminal proceedings held in the Magistrates Court.
- Extensive media coverage – applies where there is more than just standard coverage of a crime occurring or a verdict / sentence being delivered.
- Indictable offence – A charge for which the accused has an initial right to be tried by a judge and jury.
- Major indictable offence – Indictable offences where the maximum term of imprisonment exceeds five years. All major indictable offences are heard and determined in the District and Supreme Courts.
- Nolle prosequi – When a charge is discontinued because the DPP declines to prosecute.
- Non-Parole Period – When a judge imposes a sentence of minimum imprisonment, a non-parole period will be imposed. This is the minimum period the prisoner will serve before he/she is eligible for release. If this period is greater than five years, the release of the prisoner is dependent upon the Parole Board and, in cases of murder, the Governor in Executive Council.



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- Substantial public interest – applies to the following:
 - Cases where the accused is a professional (i.e. doctor, dentist, teacher, lawyer etc.)
 - Cases involving politicians
 - Cases involving South Australian police officers
 - Cases where there has been a complaint in relation to the South Australian Police's or the ODPP's handling of the matter

Legal Deposit

Legal deposit refers to statutory provisions that oblige publishers to deposit copies of their publications in libraries in the country in which they are published. Under the Commonwealth *Copyright Act 1968* and various Australian state Acts, a copy of any work published in Australia must be deposited with (a) the National Library of Australia and (b) the appropriate State Library. Legal deposit extends not only to commercial publishers but also to private individuals, clubs, churches, societies and organisations.

In South Australia, one copy of publications produced for external use should be deposited with the State Library and the Parliamentary Library (section 35, *Libraries Act 1982*). Publications include books, newspapers, magazines, journals, pamphlets, maps, plans, charts, printed music, records, cassettes, films, video or audio tapes, computer software CD-ROMS, compact discs and other items made available to the public.

Records and Litigation

Where the ODPP is aware that records may be required for use in litigation, for use in a government enquiry or the consideration of the Ombudsman, the records must not be destroyed. In such circumstances the records must be retained until two years after all cases and enquiries are complete (including appeals) and then have the original retention period applied to the records.

Pre-1901 Records

All pre-1901 records are required to be **retained permanently** in accordance with a motion approved by the State Records Council on 19 February 2008.

In this instance, this RDS does **NOT** apply to pre-1901 records.



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Item No.	FUNCTION Activity / Process	Description / Disposal Class	Disposal Action
1 CASE MANAGEMENT (CONFISCATION)			
1	CASE MANAGEMENT (CONFISCATION)	The function of managing cases associated with the confiscation of property of a person convicted of a criminal offence in accordance with orders granted under the <i>Criminal Assets Confiscation Act 2005</i>.	
1.1	Applications	<i>Applications made to the Magistrates and District Courts for the confiscation of assets.</i>	
1.1.1	Applications	<p>All applications (including interstate applications) relating to money laundering offences.</p> <p>Includes:</p> <ul style="list-style-type: none"> • Restraining orders in relation to cash • Real property • Real property and cash • Real property and vehicles • Real property, vehicles and cash • Vehicles and cash • Oral applications for cash 	TEMPORARY Destroy 50 years after action completed



Office of the Director of Public Prosecutions (ODPP)

Item No.	FUNCTION Activity / Process	Description / Disposal Class	Disposal Action
1 CASE MANAGEMENT (CONFISCATION)			
1.1.2	Applications	<p>All applications (including interstate applications) relating to drug or keep brothel offences.</p> <p>Includes:</p> <ul style="list-style-type: none"> • Restraining orders in relation to cash • Real property • Real property and cash • Real property and vehicles • Real property, vehicles and cash • Vehicles and cash • Oral applications for cash 	TEMPORARY Destroy 25 years after action completed



Office of the Director of Public Prosecutions (ODPP)

Item No.	FUNCTION Activity / Process	Description / Disposal Class	Disposal Action
2 CASE MANAGEMENT (ENFORCEMENT)			
2	CASE MANAGEMENT (ENFORCEMENT)	The function of bringing alleged breaches of the conditions of good behaviour bonds and home detention orders from a previous prosecution, to the courts attention.	
2.1	Applications	<i>Applications made to the District and Supreme Courts to enforce breaches of conditions of good behaviour bonds, suspended sentence bonds, and home detention orders.</i>	
2.1.1	Applications	All applications to enforce a breach of conditions where the case has attracted significant media coverage and/or substantial public interest.	PERMANENT
2.1.2	Applications	All applications to enforce a breach of conditions where the applications relate to the offences of: <ul style="list-style-type: none"> • Murder • Manslaughter • Criminal neglect resulting in death • Driving offences resulting in death • Abuse of public office • Dishonest exploitation of position of advantage • Kidnapping • Criminal neglect not resulting in death • Sexual offences 	TEMPORARY Destroy 100 years after action completed



Office of the Director of Public Prosecutions (ODPP)

Item No.	FUNCTION Activity / Process	Description / Disposal Class	Disposal Action
2 CASE MANAGEMENT (ENFORCEMENT)			
2.1.3	Applications	All applications to enforce a breach of conditions where the applications relate to the following offences: <ul style="list-style-type: none"> • Deception • Money laundering • Dishonest dealings with documents • Dishonest manipulation of machines • Dishonest taking advantage of malfunction of machines 	TEMPORARY Destroy 50 years after action completed
2.1.4	Applications	All applications to enforce a breach of conditions where the applications relate to the following offences: <ul style="list-style-type: none"> • Driving offences not resulting in death • Drug offences • Firearms offences • Offences against good order • Robbery • Threaten life / harm • Assault causing harm / serious harm • Endangering life • Unlawful stalking • Unlawful possession • Theft 	TEMPORARY Destroy 25 years after action completed



Office of the Director of Public Prosecutions (ODPP)

Item No.	FUNCTION Activity / Process	Description / Disposal Class	Disposal Action
3 CASE MANAGEMENT (PROSECUTION)			
3	CASE MANAGEMENT (PROSECUTION)	The function of managing cases associated with the bringing of criminal proceedings against a person in a court of law. Also includes appeals, opinions, adjudications, bail reviews and non-parole period applications relating to the prosecution case.	
3.1	Dishonesty Offences	<i>Criminal prosecutions relating to unlawful possession, theft, deception, money laundering, dishonest dealings with documents, dishonest manipulation of machines, dishonest taking advantage of malfunction of machines, and dishonest exploitation of position of advantage.</i>	
3.1.1	Dishonesty Offences	All cases involving Dishonesty Offences which have attracted extensive media coverage and/or substantial public interest.	PERMANENT
3.1.2	Dishonesty Offences	All cases involving charges for: <ul style="list-style-type: none"> Dishonest exploitation of position of advantage 	TEMPORARY Destroy 50 years after action completed
3.1.3	Dishonesty Offences	All cases involving charges for: <ul style="list-style-type: none"> Deception Money laundering Dishonest dealings with documents Dishonest manipulation of machines Dishonest taking advantage of malfunction of machines 	TEMPORARY Destroy 50 years after action completed



Office of the Director of Public Prosecutions (ODPP)

Item No.	FUNCTION Activity / Process	Description / Disposal Class	Disposal Action
3 CASE MANAGEMENT (PROSECUTION)			
3.1.4	Dishonesty Offences	All cases involving charges for: <ul style="list-style-type: none"> • Unlawful possession • Theft 	TEMPORARY Destroy 25 years after action completed
3.2	Driving Offences	<i>Criminal prosecutions relating to driving offences. Includes causing death / harm by dangerous driving, leaving accident scene after causing death / harm by careless driving, and dangerous driving to escape police pursuit.</i>	
3.2.1	Driving Offences	All cases involving driving offences which have attracted extensive media coverage and/or substantial public interest	PERMANENT
3.2.2	Driving Offences	All cases involving charges for driving offences resulting in death	PERMANENT
3.2.3	Driving Offences	All cases involving charges for driving offences not resulting in death	TEMPORARY Destroy 25 years after action completed
3.3	Drug Offences	<i>Criminal prosecutions relating to drug offences. Includes trafficking, manufacturing, cultivating, selling, supplying, and cultivating or possessing a controlled drug or plant.</i>	
3.3.1	Drug Offences	All cases involving drug offences that have attracted extensive media coverage and/or substantial public interest.	PERMANENT
3.3.2	Drug Offences	All cases involving charges for cultivating, manufacturing, supply, trafficking and other drug related offences.	TEMPORARY Destroy 25 years after action completed
3.4	Firearms Offences	<i>Criminal prosecutions relating to firearms offences. Includes manufacturing, trafficking or possession of a firearm.</i>	
3.4.1	Firearms Offences	All cases involving firearm offences that have attracted extensive media coverage and/or substantial public interest.	PERMANENT



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Item No.	FUNCTION Activity / Process	Description / Disposal Class	Disposal Action
3 CASE MANAGEMENT (PROSECUTION)			
3.4.2	Firearms Offences	All cases involving charges for manufacturing, possession, trafficking, regulatory and other firearm related offences.	TEMPORARY Destroy 25 years after action completed
3.5	Offences Against Good Order	<i>Criminal prosecutions relating to offences against good order. Includes abuse of public office, affray, escape custody, and offences against the administration of justice.</i>	
3.5.1	Offences Against Good Order	All cases involving offences against good order which have attracted extensive media coverage and/or substantial public interest.	PERMANENT
3.5.2	Offences Against Good Order	All cases involving charges of abuse of public office.	PERMANENT
3.5.3	Offences Against Good Order	All cases involving charges for affray, escape custody, judicial administration and other offences against good order	TEMPORARY Destroy 25 years after action completed
3.6	Offences Against the Person (excluding sexual offences)	<i>Criminal prosecutions relating to homicide, criminal neglect, robbery, threaten life/harm, assault, causing harm/serious harm, endangering life, kidnapping and unlawful stalking.</i>	
3.6.1	Offences Against the Person (excluding sexual offences)	All cases involving offences against the person (excluding sexual offences) which have attracted extensive media coverage and/or substantial public interest.	PERMANENT
3.6.2	Offences Against the Person (excluding sexual offences)	All cases involving charges for murder / manslaughter and criminal neglect resulting in death.	PERMANENT
3.6.3	Offences Against the Person (excluding sexual offences)	All cases involving charges for criminal neglect not resulting in death.	TEMPORARY Destroy 100 years after action completed



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Item No.	FUNCTION Activity / Process	Description / Disposal Class	Disposal Action
3 CASE MANAGEMENT (PROSECUTION)			
3.6.4	Offences Against the Person (excluding sexual offences)	All cases involving charges for robbery, threaten life/harm, assault, causing harm/serious harm, endangering life, kidnapping and unlawful stalking.	TEMPORARY Destroy 25 years after action completed
3.7	Sexual Offences	<i>Criminal prosecutions for offences of a sexual nature. Includes offences relating to rape, unlawful sexual intercourse, indecent assault, persistent sexual exploitation, gross indecency, compelling sexual manipulation, offences against children, produce/possess child exploitation material, bestiality, and incest.</i>	
3.7.1	Sexual Offences	All cases involving sexual offences which have attracted extensive media coverage and/or substantial public interest.	PERMANENT
3.7.2	Sexual Offences	All cases involving charges for rape, unlawful sexual intercourse, indecent assault, persistent sexual exploitation, gross indecency, compelling sexual manipulation, offences against children, produce/possess child exploitation material, bestiality and incest.	TEMPORARY Destroy 100 years after action completed



Office of the Director of Public Prosecutions (ODPP)

Item No.	FUNCTION Activity / Process	Description / Disposal Class	Disposal Action
4 CASE MANAGEMENT (OFFENDER MANAGEMENT)			
4	CASE MANAGEMENT (OFFENDER MANAGEMENT)	The function associated with managing offenders who have been declared (through the prosecution process) to require management outside of that normal prosecution process.	
4.1	Mental Impairment	<i>Management of cases where the offender has been declared mentally incompetent.</i>	
4.1.1	Mental Impairment	All cases where an offender has been declared mentally incompetent and the case has attracted extensive media coverage and/or substantial public interest.	PERMANENT
4.1.2	Mental Impairment	All cases where an offender has been declared mentally incompetent and the case relates to: <ul style="list-style-type: none"> • Murder • Manslaughter • Criminal neglect resulting in death • Driving offences resulting in death • Abuse of public office • Dishonest exploitation of position of advantage • Criminal neglect not resulting in death • Sexual offences • Kidnapping 	TEMPORARY Destroy 100 years after action completed



Office of the Director of Public Prosecutions (ODPP)

Item No.	FUNCTION Activity / Process	Description / Disposal Class	Disposal Action
4 CASE MANAGEMENT (OFFENDER MANAGEMENT)			
4.1.3	Mental Impairment	All cases where an offender has been declared mentally incompetent and the case relates to: <ul style="list-style-type: none"> • Deception • Money laundering • Dishonest dealings with documents • Dishonest manipulation of machines • Dishonest taking advantage of malfunction of machines 	TEMPORARY Destroy 50 years after action completed
4.1.4	Mental Impairment	All cases where an offender has been declared mentally incompetent and the case relates to: <ul style="list-style-type: none"> • Driving offences not resulting in death • Drug offences • Firearms offences • Offences against good order • Robbery • Threaten life/harm • Assault causing harm/serious harm • Endangering life • Unlawful stalking • Unlawful possession • Theft 	TEMPORARY Destroy 25 years after action completed
4.2	Habitual Sexual Offender	<i>Management of cases where the offender has been declared a habitual sexual offender.</i>	



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Item No.	FUNCTION Activity / Process	Description / Disposal Class	Disposal Action
4 CASE MANAGEMENT (OFFENDER MANAGEMENT)			
4.2.1	Habitual Sexual Offender	All cases where an offender has been declared a habitual sexual offender, where the case has attracted extensive media coverage and/or substantial public interest	PERMANENT
4.2.2	Habitual Sexual Offender	All other cases where an offender has been declared a habitual sexual offender.	TEMPORARY Destroy 100 years after action completed



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Item No.	FUNCTION Activity / Process	Description / Disposal Class	Disposal Action
5 CASE MANAGEMENT (WITNESS ASSISTANCE SERVICE)			
5	CASE MANAGEMENT (WITNESS ASSISTANCE SERVICE)	The function associated with social workers providing information and support services to victims, witnesses, interested parties and the Office of the Director of Public Prosecutions in relation to criminal proceedings.	
5.1	Social Work Support Services	<i>Management of cases relating to the Witness Assistance Services provided to key parties involved in criminal proceedings.</i>	
5.1.1	Social Work Support Services	All cases relating to the Witness Assistance Service where the case has attracted extensive media coverage and/or significant public interest.	PERMANENT
5.1.2	Social Work Support Services	All cases relating to the Witness Assistance Service where the case relates to: <ul style="list-style-type: none"> • Murder • Manslaughter • Criminal neglect resulting in death • Driving offences resulting in death • Abuse of public office • Dishonest exploitation of position of advantage • Criminal neglect not resulting in death • Sexual offences • Kidnapping 	TEMPORARY Destroy 100 years after action completed

Agency Version



Office of the Director of Public Prosecutions (ODPP)

Item No.	FUNCTION Activity / Process	Description / Disposal Class	Disposal Action
5 CASE MANAGEMENT (WITNESS ASSISTANCE SERVICE)			
5.1.3	Social Work Support Services	All cases relating to the Witness Assistance Service where the case relates to: <ul style="list-style-type: none"> • Deception • Money laundering • Dishonest dealings with documents • Dishonest manipulation of machines • Dishonest taking advantage of malfunction of machines 	TEMPORARY Destroy 50 years after action completed
5.1.4	Social Work Support Services	All cases relating to the Witness Assistance Services where the case relates to: <ul style="list-style-type: none"> • Driving offences • Firearms offences • Offences against good order • Robbery • Threaten life/harm • Assault causing harm/serious harm • Endangering life • Unlawful stalking • Unlawful possession • Theft 	TEMPORARY Destroy 25 years after action completed



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