

The Local Records Program in New York State

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SINCE 1913 New York State has had a program designed to preserve valuable records in local public offices. During the intervening years the program has accomplished much in safeguarding records and in educating public officials to the value of those records. Its major shortcoming has been its inability to keep abreast of the problems arising from the expanded records-creating activities in local offices. To correct this condition the program is now being reoriented. While its main aim is still the preservation of valuable records, greater emphasis is now being placed on assistance to local public offices in solving their records problems.

Local governments in New York State include five distinctive types: counties, cities, towns, villages and districts. Exclusive of New York City, there are more than 1600 counties, cities, towns, and villages, each with its own subdivisions of which the majority are records-creating offices. Districts are even more numerous. With the establishment of more central or consolidated school districts, the number of individual school districts is steadily decreasing, but this decrease seems to be more than offset by the creation of additional fire, water, sanitary and other districts. The total number of local records-creating offices is in excess of 10,000, with the units ranging in size from small districts numbering only a few people to great cities and counties with populations in the hundred-thousands.

In the past two decades local governmental units, like the State and Federal governments, have accepted new duties and responsibilities. The result has been an increase in the records-making activities and, consequently, an increase in records problems. Attention in the present records program is directed largely to the solution or elimination of these problems.

In 1913 the New York State Legislature provided for the office of Supervisor of Public Records to be an overseer of the records of the political subdivisions of the State outside of the Counties of

Kings and New York. In these two counties similar tasks were performed by Commissioners. The act of 1913 was prompted largely by a fire in 1911 which burned a section of the State Capitol leaving the State Library with a mass of charred and, in some cases, worthless records. Attempts to reconstruct some of the lost records from information contained in local records were largely failures, for it was found that in many communities goodly portions of the local records had already disappeared. The office of the Supervisor of Public Records was created to check this destruction and preserve the records on the local level.

To the Division of Public Records, created by legislative action at the same time and placed in the Education Department, was given the responsibility for safeguarding all public records. It was charged with taking "all necessary measures for the proper inscription, the retrieval, the care and the perservation of all the public records in the various political divisions of the State. . . ." The Supervisor of Public Records became a part of the Division of Public Records, now the Division of Archives and History of the State Department of Education. He was charged specifically with examining

into the condition of the records, books, pamphlets, documents, manuscripts, archives, maps and papers kept, filed or recorded, or hereafter to be kept, filed or recorded in the several public offices of the counties, cities, towns, villages or other political divisions of the State. . . .

The first Supervisors of Public Records concentrated upon the preservation of records. They performed an important service. Holding that public records, if they were to be preserved, must be recorded on durable material, they labored to induce public officials to use better paper and nonfading inks. They strove to improve the type of paper used by private companies printing forms to be used in public offices. With the increased use of the typewriter and the reduction of hand-inscribed documents, this problem became less important. Later when the photostat process came into use for recording documents in local offices, Supervisors did much to see that public officials realized the need for and insisted upon clearly legible reproduction.

The retrieval of missing or "strayed" records was also an important part of the work of the first Supervisors. Records, particularly in the towns, villages and districts, were found in cellars, barns, attics, and other out of the way places. With many local officials, particularly in the smaller offices, out of sight was out of

mind as far as the older records were concerned. To rescue valuable records required not only detective work on the part of the Supervisor, but also educational work to impress upon local officials the value of their older records. This phase of the work has led through the years to a better understanding on the part of many public officials of the value of public records.

One of the most beneficial services performed by the first Supervisors was the carrying out of a state-wide campaign to improve the storage conditions under which public records were kept. Local offices in the State were surveyed and a move undertaken to induce local officials to provide adequate fire-resistant safes or vaults for the storage of public records. Authority for this action was based upon a section of the Education Law which required:

Officers or boards in charge of the affairs of counties, cities, towns and villages shall provide and maintain fireproof rooms, vaults, safes, or other fire-resisting receptacles made of noncombustible materials, of ample size for the safe-keeping of the public records in their care, and shall furnish such rooms only with fittings of noncombustible material, the cost to be a charge against such county, city, town or village. All such records shall be kept in the buildings in which they are ordinarily used, and so arranged that they can be conveniently examined and referred to. When not in use, they shall be kept in the vaults, safes or other fire-resisting receptacles provided for them.

While the law on the subject was clear enough, the work of inducing local officials to purchase safes or erect vaults was not easy. Time after time it became necessary to convince a public official that the outmoded safe purchased secondhand years before failed to give the protection required. Sometimes it was even difficult to convince the public official that his records stored in an improperly constructed vault were being destroyed by excessive moisture, even though they might be protected to a certain extent from destruction by fire. To assure uniformity in standards, only safes and vault doors bearing the approval labels of Underwriters Laboratories, Inc., were accepted. Safe and vault door manufacturing companies were quick to cooperate and did much to uphold the standards set by the Division of Archives and History. A penalty clause, provided in the law for local officials refusing to take steps adequately to safeguard their records, was seldom if ever invoked.

During the early years of the program limited attention was given to the disposal of local public records that no longer had value. Several reasons undoubtedly account for this. The aim of the program was preservation, and activity and thought were directed largely toward that end. Records were accumulating but the

accumulations were not yet sufficient to be troublesome. Not all officials approved of destruction of their records, particularly financial records that had audit value. Audits of local offices by State auditors were so infrequent that many officials did not wish to risk destruction of their records. Nor were the existing laws governing the destruction of records clear. Laws requiring the creation of records seldom indicated how they were to be handled once they had been created. Here and there through the chapters of the *Consolidated Laws* of the State were scattered references to the disposal of local records, but they were neither numerous nor very inclusive.

As the volume of records increased in local offices, pleas for relief began to be heard from officials. More and more records that no longer had value were destroyed on the basis of a section of the Education Law which provided that:

No officer of the State or of any county, city, town or village or other political division of the State, or of any institution or society created under any law of the State, shall destroy, sell or otherwise dispose of any public record, original or copied, or of any archives, in his care or custody or under his control, and which are no longer in current use, without first having advised the Commissioner of Education of their nature and obtained his consent.

But there was doubt about the power of the Commissioner of Education to authorize the destruction of public records, although it was clear that he must consent to the destruction before any records could be destroyed. As a result, records disposals have not kept pace with records accumulations in local offices, and operations are now handicapped because of the excessive volume of records. Such a situation not only handicaps efficient public administration but also jeopardizes the preservation of valuable records.

The disposal of useless records is one of the major problems that faces the local public official today, but it is by no means his only one. He is in need of laws that clearly indicate how he should create, maintain, and dispose of his records. He needs to make use of the most up-to-date and efficient methods of records protection. He needs to be informed of the most recent developments and techniques for handling records.

Today the purpose of New York's local records program is still the preservation of valuable records, but the immediate aim is to bring greater assistance to public officials in solving their records problems. It is less a case of retrieving a stray record for a single office than it is a case of clearing out the accumulations of valueless records in local offices all over the State. It is less a case

of approving a records storage vault for one public office than it is a case of improving records storage facilities in all offices. The present program concentrates upon four major objectives, which, if accomplished, should go far toward safeguarding records. They include adequate records legislation, destruction of accumulated useless records, improvement of facilities for protecting valuable records, and the dissemination to local officials of information about new or improved techniques for handling records problems.

The present program is being handled under laws that were enacted in 1913, when records problems in local offices were vastly different than now. New legislation that will provide for efficient and up-to-date methods of handling records problems is being sought. At the moment the most pressing need is for legislation that will authorize the destruction of valueless local records after reasonable safeguards have been observed. Attempts have failed during the past three years to provide this as part of a general records administration act which would set up a single records administration agency for both State and local records. Under such an act authorization for destruction would have been the responsibility of the Legislature. It is likely that during the next legislative session an effort will be made to provide the necessary disposal authority by revising the Education Law to empower the Commissioner of Education to authorize the destruction of records instead of requiring him merely to consent to their destruction. Failure of such a revision of the Education Law may make it necessary to seek amendment of the individual general laws (i.e. the County Law, the General Municipal Law, the Town Law, and the Village Law — chapters of the *Consolidated Laws* of the State) to grant to local officials the authority and responsibility for destroying local records. Whatever form the authorization for destruction takes, it should be clear and it should be complete. Halfway measures will not help the situation.

More than legislation covering the destruction of records is needed. Existing laws prescribing the methods of filing and recording records in local offices should be revised to meet current needs. Legislators and legislative bill drafting committees should be encouraged when enacting legislation affecting records to give more consideration to the care, custody, and ultimate disposition of the records.

The elimination of useless records in local offices is now a major problem and the solution cannot be put off much longer even though it cannot be carried out effectively under existing laws. For the

most part, local officials are responsible for their records and, except in a few cases, action to dispose of records must originate with them. To assist them in selecting records for destruction the Division of Archives and History has begun to issue records lists informing officials what records can be destroyed under certain conditions with the consent of the Commissioner of Education.

The records disposal lists are designed to assist local officials in clearing their offices of accumulated useless records. The lists do not include all the records in an office but are restricted at the present time largely to records that accumulate the fastest and, therefore, create the bulk of the problem. In time it is anticipated that all records in local offices will be appraised for destruction or retention. Actually, the lists are designed to do only two things: first, to inform the local official of the procedure involved in requesting consent for the destruction of his records; and second, to indicate to him the record types that can be destroyed after the expiration of stated retention periods. Since destructions are permissive and not mandatory upon local officials the lists are, at most, merely guides for their convenience.

The use of these lists has been made possible within the last few years largely because of the frequent audits now made of all local offices by the State Department of Audit and Control. Where in the past local offices were audited only occasionally, they are now subject to frequent audits, usually on a one, two or three year basis. Such periodic audits have done much to eliminate the danger of destroying fiscal records that might be of value. They have had also a salutary effect upon the local records program by directing additional official attention to the accumulations of useless records in local offices and by strengthening the demand for a constructive program to aid in eliminating such records.

The lists are prepared by the Supervisor of Public Records. They are issued on the basis of the office type, but the method of preparation is much the same whether the type be a county, city, town, village or district office. The preparation of a list of disposable town records, for example, requires a survey, evaluation, determination of retention periods, and issuance of the list. In the survey both large and small town offices in various sections of the State are selected to insure as thorough a coverage as possible. The survey should reveal not only the record type, but also the relative bulk of each type. It should also indicate whether the record is an original or duplicate and should reveal the record's frequency of use. Such interpretations are not always easy to make, but a survey of

even a few town offices will usually indicate quickly the types of record that accumulate most rapidly, the types that have the lowest frequency of use and the types that can be disposed of with little danger of losing valuable information.

With the survey completed and samples of record types assembled, the evaluation of each type is necessary. While this is largely the work of the Supervisor of Public Records, opinions on the value of records and advice on the retention periods must be sought from many sources. In each case evaluations are made on the basis of continuing administrative usefulness, legal value, fiscal or audit value, and historical or research value.

Probably one of the most important considerations in evaluating the records for destruction is the possibility of their having continuing administrative value to the office creating or maintaining them. While the survey should reveal, as accurately as possible, the frequency of their use and whether or not the records are originals or duplicates, more specific information regarding their administrative value is needed. This is best sought from the official who creates or maintains the record. His opinion should not always be accepted as final, however, for sometimes officials, hard-pressed for records storage space, agree too readily to the destruction of records. It should be checked against opinions from other sources, particularly where the record is created at the direction of another agency, usually at the State or county level. In such a case the agency requiring the creation of the record should be consulted.

Obviously, records that have continuing administrative value should not be approved for destruction. Copies can often be destroyed if the originals are retained, but caution should be exercised in approving such destructions, especially where the originals are not on file in the same office. Many records have a declining usefulness with the years, and these records can often be destroyed after the expiration of a retention period. Occasionally records, particularly subsidiary records that go to make up a permanent record, can be destroyed because the information that the records contain is preserved elsewhere.

The records should also be evaluated from legal and fiscal points of view. Legal evaluation involves appraising the records to determine whether there is anything in the law requiring their retention. It necessitates examination of the law or laws dealing with the record, opinions of the Attorney General in relation to the record and any court decisions that may effect the record. It sometimes in-

volves extensive research, particularly in the case of older records, and it often calls for legal advice and assistance.

Evaluation of records for continuing fiscal or audit purposes is no longer the troublesome problem that it used to be in New York State. The State Department of Audit and Control now audits all public financial records at regular intervals, and the reports of the audits are made available. Advice of that Department is always sought in evaluating fiscal records for destruction.

The final evaluation covers the research value of the record. This is, in some respects, the most difficult determination to make since it is impossible to determine with certainty just what pathways future research may take and what record types will be necessary for that research. It has been found that the records causing the heaviest accumulation in local offices seldom have a high research potential. For the most part, they are either duplicate copies of records that are preserved elsewhere or they are subsidiary records that have been used in the preparation of some permanent record. Nevertheless, opinions on the advisability of retaining records for research purposes are sought from the State Historian and others interested in local history, the research sections of the various State departments and from research organizations in county and municipal governments. In borderline cases, or where records may have temporary value for research purposes, the records should be retained. They can always be reappraised later and destroyed.

Once the records have been evaluated for destruction a retention period is determined for each type unless the retention period was determined during the evaluation. Here, again, advice must be sought from those interested in the records. Retention periods vary considerably, with some records being retained only a few months while others are retained for years. In some cases the retention periods are set by law, as in the case of election records in New York State. With fiscal records a retention period of at least six years is usually required to insure that such records will be retained long enough to allow the State Department of Audit and Control, in most cases, to audit each local office twice. Whenever it is impossible to set a satisfactory retention period a record is omitted from the disposal list. In many cases the safest practice is to set longer retention periods than would normally be deemed necessary. Such retention periods can always be adjusted downward at a later date.

Once evaluations have been made and retention periods set, the

list is mimeographed and distributed.¹ Since it is merely a guide and not a destruction authorization, local officials are informed of the proper method of requesting the consent of the Commissioner of Education for the destruction of their records. In each case they are required to indicate not only the record type but also the inclusive dates for which destruction is desired. When a request is received by the Supervisor of Public Records the audit dates of the individual office are checked with the State Department of Audit and Control. If audit requirements have been met and retention periods observed the consent of the Commissioner of Education to destruction is given in a signed and sealed statement.

Such lists are not considered the final answer for the disposition of local records. They are regarded as a means by which masses of accumulated records can be disposed of by local officials with a certain degree of security. Since any action based on the lists is permissive and not mandatory, and since any application must originate with a local officer, they in no way deprive local officials of control over their own records. In time, with the enactment of suitable legislation and after adequate safeguards have been taken to insure the retention of records for audit purposes, the lists might be converted into destruction schedules. On the basis of such schedules a local official could then destroy his records at the expiration of the retention periods without making application to the Commissioner. At the present time such a system is not regarded as advisable.

The third objective of the present program is the improvement of facilities for protecting valuable records in local offices. In part, this is a continuation of the campaign, long in existence, to induce local officials to provide better safes and vaults for the storage of their records.

Much attention is now being given to the design of records storage facilities in public buildings. Construction of some buildings, long halted by wartime and post-war shortages and high construction costs, is now getting underway. Other buildings are still in the drawing board stage, but architects are taking cognizance of the limited storage space available for records in existing buildings. They are listening to the pleas of hard-pressed local officials and are paying marked attention to the demands for adequate storage space in the proposed buildings. Much remains to be done in the planning of satisfactory records storage areas in public offices. At present, attention is directed largely toward the collection of data

¹ One of these lists is appended to this article as an exhibit.

on space requirements, protection, accessibility and details of construction of record storage areas. The information collected will be made available to architects and others engaged in the design of public buildings.

The fourth objective involves the dissemination of information useful to local officials in solving their records problems. Most of them are too much occupied with their every day duties to concentrate upon the solution of records problems. They often fail to realize that some problems are common to many offices and that a solution evolved in one may, with modifications, be instituted in others. Few local officials have specialized knowledge of records equipment and they must depend largely upon equipment salesmen for the latest information about filing systems, filing equipment, photostating, microfilming, forms design and other equipment. The result is not always satisfactory.

In the past the Supervisor of Public Records has used three principal methods to contact local officials. Because of the large number of public offices in the State, personal visitations, which should be the most effective way, have not been satisfactory. Distribution of information by mail has definite limitations. Addresses before associations of local public officers offer an excellent way to disseminate general information, but they are not always successful as a means of reaching the individual local official who is beset by records problems in his office.

In spite of their limitations the three methods will be continued, but in addition plans are being made to establish a series of local conferences on records problems. They will be held in various parts of the State where local officials can congregate for a day. There, problems common to local officials will be explored, new laws and regulations explained, and new methods and equipment demonstrated. In this way it is expected more information can be disseminated and more direct help given local officials.

Since its inception in 1913 New York's local records program has accomplished much both in the preservation of public records and in educating officials and the public to the value of those records. Now its emphasis is turned more directly to the assistance of local officials beset with records problems. In this new endeavor it will not only continue the preservation of valuable records but will do much to aid local officials in improving public administration activities throughout the State.

NOT A DESTRUCTION AUTHORIZATION

THE UNIVERSITY OF THE STATE OF NEW YORK

The State Education Department

Albany 1

PROCEDURE FOR REQUESTING THE CONSENT OF THE COMMISSIONER
OF EDUCATION FOR DESTRUCTION OF CERTAIN VILLAGE RECORDS

Public records *may not* be destroyed without the consent of the Commissioner of Education (Section 147, Education Law). To assist authorized village officials in clearing their files of certain obsolete records, the following list has been compiled as a guide in preparing requests for consent to destroy certain record groups.

These records may be destroyed only after two recent audits of the village have been completed by the State Department of Audit and Control and the reports have been filed.

LIST the exact title for each record group with the inclusive (beginning and ending) dates for which consent for destruction is requested.

EXAMPLES: Bank deposit slips; years: 1920-1940

Election records; years: 1925-1945

Check stubs; years: 1922-1940

SEND the list of records for which consent for destruction is requested to:

Commissioner of Education

State Education Department

Albany 1, New York

Attention: Supervisor of Public Records

LIST NO. 1

| <i>Record Title</i> | <i>Period to be retained</i> |
|--|--------------------------------------|
| 1 Accident reports | Six years after case is closed |
| 2 Bank deposit books | Six years |
| 3 Bank deposit slips (duplicates) | Six years |
| 4 Bank statements | Six years |
| 5 Bills, claims, orders, vouchers or warrants (paid) | Six years |
| 6 Certificates of appointment to office | Ten years after vacating of- fice |
| 7 Certificates of resignation from office | Ten years after vacating of- fice |
| 8 Checks (canceled) | Six years |
| 9 Check stubs | Six years |
| 10 Claims (see bills) | Six years |
| 11 Compensation insurance policy (expired and no litigation pending) | Six years after expiration |
| 12 Contractors' surety bonds | Six years after expiration |
| 13 Dog license records (applicable only in West- chester and Nassau counties) | Three years |
| 14 Election records (except personal register and older lists) | One year |
| 15 Franchise records (expired): petitions, hearings, closed contracts | Six years after expiration |
| 16 Insurance policies (expired) relating to village property | Three years after expiration |
| 17 Invoices | Six years |
| 18 Licenses (exclusive of building permits) | Six years after expiration |
| 19 Oaths of office | Ten years after vacating of- fice |

| | | |
|----|--|---------------------------------------|
| 20 | Orders (see bills) | Six years |
| 21 | Police justices' orders and informations | Six years |
| 22 | Special franchise valuations as fixed by the State Department of Taxation and Finance | Three years |
| 23 | Surety bonds (or official undertakings) of village officers | Twenty years after vacating office |
| 24 | Tax receipts | Six years |
| 25 | Vouchers (see bills) | Six years |
| 26 | Warrants (see bills) | Six years |

NOTICE

The foregoing list does not apply to village pay roll records, records relating to real property owned now or formerly by the village, or to records involved in or likely to be involved in litigation.

NOT A DESTRUCTION AUTHORIZATION