



*Kern County Sheriff's Office*  
**Policies and Procedures**

<b>TITLE: DESTRUCTION OF PERSONNEL COMPLAINT FILES</b>		<b>NO: J-1620</b>	
<b>APPROVED: Donny Youngblood, Sheriff-Coroner</b>			
<b>EFFECTIVE:</b> <b>February 1, 1996</b>	<b>REVIEWED:</b> 06/08/2018	<b>REVISED:</b> 03/01/2007	<b>UPDATED:</b> 06/08/2018

## **POLICY**

California Penal Code Sections 832.7(a) and 832.8(e) provide that peace officer records maintained pursuant to Section 832.5 or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding, except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code.

Further, for non-peace officer personnel of a department, personnel records are protected under Government Code Section 6254(c) and Code of Civil Procedure Sections 1985.4 and 1985.6.

Evidence Code Section 1045(b)(1) excludes from disclosure information consisting of complaints concerning conduct occurring more than five (5) years before the event or transaction which is the subject of the litigation.

Penal Code Section 832.5(b) requires that any citizen's complaints against personnel and any reports or findings relating thereto shall be retained for a period of at least five years.

Once citizens' complaints against personnel of a law enforcement agency have been retained for a period of five (5) years, they can be destroyed, but must comply with Government Code Section 26202 and such destruction must be authorized by the Board of Supervisors.

It is the policy of the Sheriff's Office to seek destruction of all citizens' complaint files which are more than five (5) years old from the date of the complaint and not subject to pending litigation or any other official or departmental inquiry.

## **PROCEDURE A: REQUEST FOR DESTRUCTION**

On an annual basis, the Commander of the Human Resources Section will:

- Identify the citizens' complaint files which are eligible for destruction.
- Verify through the Sheriff's Office Litigation Specialist that no litigation is pending.
- Submit a request to the Undersheriff to destroy the records.
- If approved, prepare an "Authorization to Destroy Records" form. (County Form Adm. #46).
- Follow procedures and routing as outlined in the General Instructions on Form Adm. #46.

**PROCEDURE B: ACTUAL DESTRUCTION**

Upon receipt of authorization for destruction, the Human Resources Section Commander will:

- Cause the citizen’s complaint file, index cards, and any tape recordings to be purged and destroyed.
- The destruction will be accomplished by maintaining confidentiality of the files by shredding written documentation and erasing recorded statements.
- Retain the authorization form in a file designated for “Authorization to Destroy Records.”

**DIRECTIVE A:**

Destruction of citizens’ complaint files should be avoided while a criminal or civil case is pending or on appeal even if the complained conduct occurred more than five (5) years ago.

**DIRECTIVE B:**

Nothing in this procedure authorizes the removal, purging, or destruction of any records from an employee’s actual personnel file. No such record shall be destroyed. An employee’s personnel file is part of the employee’s permanent personnel record and is to be maintained intact throughout the course of the employee’s public service. (Government Code Section 31011 and Labor Code Section 1198.5).

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