

Office of the State Public Defender Administrative Policies

Subject: Client File Destruction	Policy No.: 107
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1.0 POLICY

- 1.1 All Office of the State Public Defender (OPD) client files are the property of the State of Montana and disposition of files must follow the rules established by the Montana Secretary of State.
- 1.2 OPD has established the following procedures for disposition of client files. This policy applies to all client files, whether maintained by OPD offices or by contract attorneys.
- 1.3 This retention schedule applies to investigative files that are maintained separately from the case file.
- 1.4 This retention schedule applies to mental health consultation files that are maintained separately from the case file.

2.0 PROCEDURE

2.1 FELONY CASES

2.1.1 Deferred Sentences

Files wherein a deferred sentence was imposed will be destroyed eight years after judgment.

2.1.2 Suspended Sentences

Files wherein a suspended sentence was imposed will be destroyed after completion of the sentence. If the sentence is for a period of commitment followed by a suspended sentence, the file will be destroyed after completion of the suspended portion of the sentence.

2.1.3 Commitment Sentences

Files wherein the sentence is one of commitment will be destroyed five years after the entry of judgment.

2.1.4 Individual offices will retain the file, within their discretion, when:

2.1.4.1 The file is that of a client whom the office believes will be a client again; or

2.1.4.2 The file contains briefs or pleadings that may be of use in new cases and the briefs or pleadings have not yet been entered into a brief bank.

2.2 MISDEMEANOR CASES

Misdemeanor files, three or more years old, will be destroyed unless there is a pending Order to Show Cause, Petition to Revoke or warrant relating to the case.

2.3 JUVENILE CASES

Juvenile files shall be destroyed when the youth reaches the age of 21, unless the Court has extended jurisdiction to the age of 25 years.

2.4 DEPENDENT/NEGLECT CASES

Dependent/neglect files shall be destroyed when:

2.4.1 The case has been closed for five years; or

2.4.2 The concerned children have reached the age of 18; or

2.4.3 The children have been adopted.

2.5 INVOLUNTARY COMMITMENT OR GUARDIANSHIP CASES

Involuntary commitment or guardianship files will be destroyed five years after the date of commitment.

2.6 SENTENCE REVIEW CASES

Sentence review files will be destroyed three years following the date of decision.

2.7 POSTCONVICTION RELIEF CASES

Postconviction relief files will be destroyed three years following the date of decision, after notification to the client that the file will be destroyed.

2.8 APPELLATE CASES

Appellate files will be destroyed ten years after the Supreme Court opinion is issued.

3.0 CLOSING

Questions about this policy should be directed to OPD at the following address:

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Administrative Service Division
44 West Park
Butte, MT 59701
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