

Alabama Office of the Attorney General



Functional Analysis & Records Disposition Authority

**Revision
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Functional and Organizational Analysis of the Alabama Office of the Attorney General

Sources of Information

- Representatives of the Office of Attorney General
- Code of Alabama 1975 § 8-19-4, § 12-3-32, § 36-15-1 et seq.
- Alabama Government Manual (2006)
- Archives Division, State Agency Files (1985-ongoing)
- Archives Division, Retention Schedules for the Office of the Attorney General

Historical Context

The Mississippi Territory legislature appointed a territorial attorney general in 1807 whose jurisdiction encompassed the land which would become Alabama. The territory was divided into three sections in 1818 with attorneys general appointed for each region. When Alabama gained statehood the following year, the Office of the Attorney General was incorporated into the state's original constitution. The Alabama General Assembly elected Mr. Henry Hitchcock as the state's first Attorney General. Mr. Hitchcock, a respected elder statesman and state constitutional convention attendee on behalf of Washington County, served concurrently as the first Secretary of State, and would go on to become Chief Justice of the Supreme Court of Alabama.

The Office of the Attorney General had originally been classified as part of the state's judicial branch. In 1868 the agency became part of the executive branch, while an 1876 constitutional amendment mandated that the attorney general be elected via popular vote instead of legislative consensus. The term of office was reduced from four to two years in 1876 as well, though this decision was reversed in 1901.

The attorney general has traditionally been a state office with little staffing; no clerical assistance of any kind was permitted until 1896, when the state legislature authorized the attorney general to hire one clerk. In 1939, the legislature passed the Alabama Merit System Act, bringing most employees of the Office of the Attorney General under the framework of rules and regulations administered by the State Personnel Board.

Subsequent legislation has permitted the attorney general to hire assistant attorneys general to assist in the duties of office. The position of Deputy Attorney General was established in 1991. Today, the attorney general's staff includes more than 170 employees with diversified skills and training in law, public administration, investigation, consumer affairs, utility regulation, paralegal studies, and other disciplines.

Agency Organization

The attorney general is selected by popular election for a four-year term and is eligible for one successive term. Article V, Section 132, of the state's constitution reads that the attorney general

shall have been a citizen of the United States for at least seven years, an Alabama resident for at least five years preceding his/her election, and at least 25 years old at the time of election to office.

The attorney general appoints a chief deputy attorney general who exercises such powers as the attorney general delegates and exercises the full power of the attorney general when the attorney general is absent. Additionally, the attorney general may appoint deputy attorneys general, executive assistants, paralegals, special administrative assistants, and investigators, who serve at the pleasure of the attorney general. The majority of the agency's staff consists of merit system employees, including appellate, prosecutorial, secretarial, administrative, and investigatory personnel to carry out the mandated functions of the office.

The Office of the Attorney General is currently organized into the following divisions to facilitate the handling of a variety of cases and scenarios: Administrative Services, Capital Litigation, Consumer Interest, Criminal Appeals, Criminal Trials, Executive, General Civil Litigation, Information Technology, Investigations, Medicaid Fraud, Solicitor General, Special Prosecutions.

Agency Function and Subfunctions

The mandated function of the Office of the Attorney General is to provide legal advice and legal representation for the State, its officers, and its citizenry. It is one of the agencies responsible for performing the Public Advocacy and Policy and Statute Development functions of Alabama government.

In the performance of its mandated functions, the agency may engage in the following subfunctions:

- **Advising.** According to the Code of Alabama 1975 § 36-15-1 et seq., the agency may advise the governor on bills submitted to the legislature; advise and assist the legislature with codification of laws; examine all statutes now in force or which may be enacted in the future; and make written reports to the legislature or the governor regarding invalid laws or inaccuracies, mistakes, or omissions in the laws of the state.

A second component of the advising subfunction is the issuance of opinions on questions of law. These opinions may come at the request of state agencies or of local officials. The attorney general is required to post electronic copies of official written opinions issued (Code of Alabama 1975 § 36-15-1-(3)).

- **Representing.** The Office of the Attorney General acts as the attorney for the state in all matters in which the state has an interest (Code of Alabama 1975 § 36-15-12 through 14 and 21). It represents the state in all criminal and civil appeals and for all capital litigation beyond the trial level. When requested, it may also represent municipal officials in appellate court. The Office of the Attorney General may institute proceedings to enforce state, county, and municipal regulations that have been violated. It may also intervene to represent the state's interest in important civil or criminal cases and may

bring actions against public officials accused of violating campaign disclosure laws, against "agents of the state in the name of the citizens of Alabama," and against public nuisances. The agency may institute and prosecute, in the name of the state, all civil actions and other proceedings necessary to protect the rights and interests of the state and may also direct the prosecution of any criminal case in any of the courts of the state (Code of Alabama 1975 § 36-15-12 through 14 and 21).

The Office of the Attorney General is also mandated to maintain a docket of all civil actions and claims where the state has an interest and to record collection procedures and amounts collected (Code of Alabama 1975 § 36-15-1 (6)).

The attorney general serves as either a voting or *ex officio* member for various state entities, boards, and commissions as required by the Code of Alabama. Other agencies, boards, and commissions are represented by the Office in legal matters. These attorneys provide legal advice, prepare cases, and litigate on behalf of the entity.

- **Investigating.** The Code of Alabama provides the Attorney General the power to appoint a chief investigator and additional investigators that shall serve at the pleasure of the Attorney General. Investigators shall have “the powers of arrest and the power to serve any and all process, and shall perform the duties, responsibilities, and function as may be designated by the Attorney General” (Code of Alabama 1975 § 36-15-6(C)).

The Office of the Attorney General investigates to substantiate accusations or claims relating to infractions of state law (Code of Alabama 1975 § 36-15-60 through 64). The agency also conducts investigations in connection with criminal and civil cases that may not directly relate to state government but in which the state has an interest. (Code of Alabama 1975 § 36-15-60 through 64).

- **Validating/Approving.** The Office of the Attorney General examines and approves all extradition papers. Extradition papers, seeking extradition of a person from Alabama by another state or seeking extradition of a person to Alabama from another state, by law are submitted to the Attorney General for review of form and legality before being acted upon by the Governor. Upon request of the Governor, the Attorney General may advise on the best course of action on extradition. (Code of Alabama 1975 § 36-15-1 (10)). This subfunction produces no records that remain in the custody of the Office of the Attorney General.
- **Appointing.** The Code of Alabama 1975 provides the Attorney General the power to appoint various employees to meet the needs and mission of the Office of the Attorney General and to designate deputy attorneys general and assistant attorneys general to provide legal representation to various state agencies, boards and commissions.

Other employees are appointed, as provided by the Code of Alabama, including a chief deputy attorney general, investigators, executive assistants, and special administrative assistants. (Code of Alabama, 1975 § 36-15-5.1, § 36-15-5.2, § 36-15-6, § 36-15-10, § 36-15-10.1, § 36-15-60)

The Chief Deputy Attorney General is appointed by the Attorney General and is considered a commissioned officer of the State of Alabama. Appointed full-time deputy attorneys general employed in the Office cannot exceed 12; while the number of full-time deputy attorneys general employed in any state department or agency cannot exceed one. The attorney general can appoint (or employ) assistant attorneys general and investigators based on the workload in his or her office. Specifically, the attorney general can appoint a chief investigator for his or her office and up to six additional investigators. The appointment of up to five executive assistants and the appointment (or employment) of up to seven special administrative assistants is provided by code to perform duties as directed by the Attorney General.

- **Administering Internal Operations.** A significant portion of the agency's work includes general administrative, financial, and personnel activities performed to support the programmatic areas of the agency including:

Managing the Agency: Activities include internal office management activities common to most government agencies such as corresponding and communicating, scheduling, meeting, documenting policy and procedures, reporting, litigating, legislating (drafting, tracking), publicizing and providing information, managing records, and managing information systems and technology.

Managing Finances: Activities include budgeting (preparing and reviewing budget package, submitting the budget package to the Department of Finance, documenting amendments and performance of the budget); purchasing (requisitioning and purchasing supplies and equipment, receipting and invoicing for goods, and authorizing payment for products received); accounting for the expenditure, encumbrance, disbursement, and reconciliation of funds within the agency's budget through a uniform system of accounting and reporting; authorizing travel; contracting with companies or individuals; bidding for products and services; and assisting in the audit process.

Managing Human Resources: Activities include recruiting and hiring eligible individuals to fill positions within the agency; providing compensation to employees; providing benefits to employees such as leave, health insurance, unemployment compensation, worker's compensation, injury compensation, retirement, and death benefits; supervising employees by evaluating performance, granting leave, and monitoring the accumulation of leave; training and providing continuing education for employees; investigating and disciplining.

Managing Properties, Facilities, and Resources: Activities include inventorying and accounting for non-consumable property and reporting property information to the appropriate authority; leasing and/or renting offices or facilities; providing security for property managed by the agency; insuring property; and assigning, inspecting and maintaining agency property.

Records Appraisal of the Alabama Office of the Attorney General

The following is a discussion of the two major categories of records created and/or maintained by the Office of the Attorney General: Temporary Records and Permanent Records.

Temporary Records

Temporary records should be held for what is considered their active life and be disposed of once all fiscal, legal, and administrative requirements have been met. Some of the temporary records created by the office are discussed below:

- **Administrative Hearings Case Files (includes correspondence, transcripts, and orders).** These case files document activity relating to Medicaid, State Employees Injury Compensation Trust Fund, and Students First Act and may include complaints, motions, orders, hearing and deposition transcripts, and recommendations by the Administrative Hearing Officers. The records should be retained for the duration of the case until the expiration of the appeal times. Files, depending on direction from the agency, may be destroyed or returned.
- **Opinion Correspondence (no opinion issued), Withdrawn Opinion Requests, and Resolution Requested Letters.** These files are composed of the following: requests for opinions; letters declining to issue opinions; letters seeking resolution from boards, commissions, and councils to authorize requests; letters withdrawing opinion requests; and accompanying records and research items. The records are to be retained for 4 years after creation because these transactions frequently trigger additional related opinion requests shortly thereafter for which review of the initial file is helpful.
- **Opinions Research and Working Files.** When preparing opinions on questions of law to state departments, agencies, boards, commissions, legislators, and other local public officials and political subdivisions, staff produce various drafts, records and research items that are not official documents. These documents should be considered as temporary records and have a recommended retention of 1 year because these transactions frequently trigger additional related opinion requests shortly thereafter for which review of the initial file is helpful. Official opinions of the attorney general are permanent records described in the below section.
- **Opinions Litigation, Pre-litigation Materials, Agency Research, and Working Files.** When preparing opinions on questions of law to state departments, agencies, boards, commissions, legislators, and other local public officials and political subdivisions, staff produce various drafts, records and research items that are not official documents. The records are to be retained for 1 year in the Office of the Attorney General, then transferred to the appropriate agency because these transactions frequently trigger additional related opinion requests shortly thereafter for which review of the initial file is helpful.

- **Opinions Firearms Petitions (not correspondence of the attorney general).** The Code of Alabama 1975 § 13A-11-61.3(f) requires the attorney general to state publicly in writing the justification of a determination not to file suit in response to a petition requesting the office to set aside illegal firearms rules of political subdivisions. These petitions may receive a response from the head of the Office of the Attorney General's Opinions Section rather than from the attorney general himself, thereby removing these petitions from the official correspondence of the attorney general. These records are to be retained for 3 years after creation because these transactions frequently trigger additional related opinion requests shortly thereafter for which review of the initial file is helpful.
- **Consumer Class Actions.** These records document class-action lawsuits undertaken by the Consumer Interest Division on behalf of Alabama citizenry. The files are kept by the Consumer Interest Division for 4 years after final dispensation. This period permits the Division to retain the file and its related documents in case there is a need to investigate or take administrative action regarding the class-action settlement.
- **Consumer Registration and Renewal Files.** These documents pertain to the registration, renewals, and fee collection of charities, health studios, professional fundraisers, professional solicitors, and commercial co-ventures that solicit in or from the State of Alabama. These records have a retention of 4 years after final dispensation. This period permits the Division to retain the file and its related records in case there is a need to investigate, prosecute, or take administrative action with regards to the registrant's conduct.
- **Consumer Telemarketing Registration and Renewal Files.** These documents pertain to the registration, renewals, and fee collection of telemarketers that solicit in or from the State of Alabama. These records are to be retained for 4 years after final dispensation. The Alabama Telemarketing Act requires telemarketers to keep records of their activities for two years after the end of their registration period (i.e. after final dispensation). The four-year period for dispensation permits the Division to retain the file and its related records in case there is a need to investigate, prosecute, or take administrative action with regards to the licensee's conduct.
- **Consumer Legal Case Files (Civil Cases).** These legal and investigative case files are created as a result of the prosecution of complaints filed by consumers which have been determined to violate existing federal and state laws. These legal case files result from settlements or court orders according to the provisions of the Deceptive Trade Practices Act. These records are to be retained for 4 years after final dispensation so that the records may be used as evidence in other cases brought by the Office or other Attorneys General.
- **Consumer Legal Case Files (Criminal Cases).** These legal and investigative case files are created as a result of the prosecution of complaints filed by consumers which have been determined to violate existing federal and state laws. These legal case files are created because of criminal actions filed in state courts. These records are to be retained

for 10 years after final dispensation to allow sufficient time for prosecution as provided for according to the Code of Alabama 1975 § 15-3-5.

- **Environmental Legal Case Files (Non-Special Cases).** These case files are created as the result of enforcement of the state's environmental statutes, such as the Alabama Water Pollution Control Act, the Hazardous Waste Management Act and Minimization Act, the Solid Waste Act and the Alabama Air Pollution Control Act. Cases handled generally involve pollution, illegal hazardous waste, or other dangerous environmental concerns. Files may include matters of either a civil or criminal nature. Records from cases without a termination date are to be retained for 20 years after final dispensation due to the potential long-term environmental impacts of matters described.
- **Utilities Files.** Documents created while representing all public matters affecting utility services before the Alabama Public Service Commission. Records should be retained for 1 year after the utility ceases to do business in Alabama.
- **Criminal Appeals Legal Case Files (cases with a sentence other than death or life without parole).** These files document all of the activity involved in handling the prosecution of cases and the subsequent appeals through all the appellate courts. Some of these cases have legal value to the Office of the Attorney General until the final closure of the case. These records are to be retained for 20 years after final dispensation because they may be needed for subsequent collateral proceedings in state court (such as Rule 32 petitions) or in federal court (such as in federal *habeas corpus* proceedings).
- **Criminal Appeals Inactive Transcripts (cases with a sentence other than death or life without parole).** These transcripts document all of the activity involved in handling the prosecution of cases and the subsequent appeals through all the appellate courts. Some of these cases have legal value to the Office of the Attorney General until the final closure of the case. These transcripts are to be retained for 10 years after final dispensation because they may be needed for subsequent collateral proceedings in state court (such as Rule 32 petitions) or in federal court (such as in federal habeas corpus proceedings).
- **Constitutional Defense Division Files (Non-Special Cases).** These cases deal with civil matters in which there is a question of constitutional law, civil rights, voting rights, or employment discrimination matters. These records are to be retained for 10 years after final dispensation because of the need to refer to research and pleadings in past cases presenting reoccurring issues.
- **Criminal Trials Division Case Files (Non-Special Cases).** These files are created during the course of the activities associated with prosecution of violent crimes, including murder and rape cases; prosecution of certain economic cases; and prosecution of certain white-collar crimes. These records are to be retained for 10 years after final dispensation to allow sufficient time for prosecution as provided for according to the Code of Alabama 1975 § 15-3-5.

- **Victims Assistance Files.** These records concern victim assistance activities performed to support crime victims. These records are to be retained for 10 years after discharge of individual or other release of inmate because the Code of Alabama 1975 § 15-20A-41 as amended by the Acts of Alabama No. 2011-640 provides that, upon the request of the victim, the Alabama Attorney General's Office of Victim Assistance shall notify victims of the release from prison of a sex offender. Specifically, this section contains the following language: "Upon request of the victim, the Attorney General's Office of Victim Assistance shall send a notice to the victim notifying the victim of the pending release of the sex offender and the location at which the sex offender intends to reside. This request by the victim shall be made electronically or in writing to the Attorney General's Office of Victim Assistance."
- **Legislative Affairs Working Files.** These files are created during the course of business by the Executive Division staff. These records are to be retained for 4 years as this is the length of one administrative term.
- **Constituent Affairs Working Files.** These files are created during the course of business by the Executive Division staff. These records are to be retained for 4 years as this is the length of one administrative term.
- **Public Relations Working Files.** These files are created during the course of business by the Executive Division staff. The series includes working files only and is not to be confused with Informational and Promotional Materials, a permanent record series comprised of publications used to build public awareness on a variety of issues and department-related activities. The records in the Working Files series are to be retained for 4 years as this is the length of one administrative term.
- **Law Enforcement Relations Working Files.** These files are created during the course of business by the Executive Division staff. These records are to be retained for 4 years as this is the length of one administrative term.
- **General Civil and Administrative Legal Case Files (Non-Special Cases).** These files include civil cases in all courts and before administrative boards as either a defender or initiator of a civil action. Civil matters addressed include prisoner litigation, civil litigation, representation in administrative hearings, contracts and related commercial transactions. These files also include responses of Administrative Law Judges to agencies, boards, or commissions in rendering proposed findings from which a final order can be issued by the agency or, when requested or required by law, issuing a final order from which an appeal can be made to circuit court. These records are to be retained for 6 years after the final dispensation of the case in keeping with the applicable statute of limitations for actions against attorneys for failure to pay over restitution to clients for neglect or omission of duty (Code of Alabama 1975, §6-2-34(8)).
- **Medicaid Fraud Control Unit (MFCU) Files (Non-Special Cases).** MFCU files are created during the course of the activities associated with the investigation and prosecution of allegations of fraud by Medicaid providers, and allegations of abuse,

neglect, and financial exploitation of residents of Medicaid funded facilities. Files will include investigative materials gathered during the course of investigative activities. Files may also include litigation material, in those instances where an investigation has established probable cause to initiate a criminal prosecution. These records are to be retained for 6 years after final dispensation because the Code of Alabama 1975 § 22-1-11 provides for a six-year statute of limitation for the prosecution of Medicaid Fraud.

- **Special Prosecutions Division Case Files (Non-Special Cases).** These files are created during the course of the activities associated with investigating and prosecuting significant criminal violations of trust by public officials and employees. These records are to be retained for 10 years after final dispensation to allow sufficient time for prosecution as provided for according to the Code of Alabama 1975 § 15-3-5.
- **Investigation Files.** These files are created during the course of investigating a variety of criminal matters including but not limited to “cold” cases and other violent crimes. These records are to be retained according to the established retention of the corresponding case file.
- **Consumer Investigation Case Files.** These files are created during the investigation of civil or criminal consumer protection matters that do not result in a settlement or the filing of an enforcement action. These records may be destroyed 4 years after final dispensation.
- **Environmental Investigation Supporting Documents.** These files are created during the course of environmental investigations. These records are to be retained according to the established retention of the corresponding case file.

Permanent Records

The Archives Division recommends the following records as permanent.

Advising

- **Firearms Petitions (Correspondence of the Attorney General).** The Code of Alabama 1975 § 13A-11-61.3(f) requires the attorney general to publicly state in writing the justification of a determination not to file suit in response to a petition requesting the office to set aside illegal firearms rules of political subdivisions. These petitions become a component of the official correspondence of the attorney general. **(Bibliographic Title: Firearms Petitions Correspondence)**
- **Official Opinions (Includes Opinions and Supporting Documentation).** The Office of the Attorney General is required by the Code of Alabama 1975 § 36-15-1(5) to keep and preserve, with proper indexes, copies of all the official opinions and correspondence. These records provide, along with the published opinions, the best evidence of the advising activities of the agency. **(Bibliographic Title: Opinions)**

- **Official Opinions (Electronic Compilations).** The Code of Alabama 1975 § 36-15-1 (3) requires the attorney general to post on the Internet searchable, electronic copies of the written official opinions rendered by him/her or pursuant to § 36-15-1 (1). Electronic copies of the opinions are to be sent, in a timely manner, to the public official who has asked to receive them and has provided a working email address. These records provide, along with the official opinions, the best evidence of the advising activities of the agency. **(Bibliographic Title: Opinions)**

Representing

- **Special Legal Case Files (Constitutional Defense, Environmental, General Civil, Medicaid Fraud, Criminal Trials, Special Prosecutions, and All Other Special Litigation/Cases).** The attorney general represents the state in civil and criminal litigation in which the state is a party and also initiates suits on behalf of the state and its citizens. These case files document all activities related to any proceeding involving issues of historical importance and interest such as major voting rights or civil rights cases, statewide election disputes, cases involving important issues of constitutional law, cases involving major financial interests of the state, cases involving significant criminal offenses, etc. These cases are rare but are primarily high profile, historical, and/or precedent setting. **(Bibliographic Title: Legal Case Files)**
- **Capital Litigation Case Files.** The Capital Litigation Division of the Office of the Attorney General handles the appeals of all capital (death sentence) cases. A capital case can be appealed through the Alabama court system to the U.S. Supreme Court, or it may be appealed through the federal appeals system to the U.S. Supreme Court. These files document all of the activity involved in handling the prosecution of such cases through all the appellate courts. Many of these cases set precedent, and all of them have long-term legal value to the Office of the Attorney General until the final closure of the file. A file is closed only when a defendant is executed, set free, or given a final sentence other than death (reversed decision). These records have long-term legal value in the conduct of Rule 32 collateral and habeas corpus proceedings, and provide historical evidence of the prosecuting function of the Office of the Attorney General as it relates to capital offenses. These cases also document the position the state takes with regard to capital punishment. **(Bibliographic Title: Capital Litigation Case Files)**
- **Capital Litigation Inactive Transcripts.** These transcripts document the appeals of all capital (death sentence) cases. A capital case can be appealed through the Alabama court system to the U.S. Supreme Court, or it may be appealed through the federal appeals system to the U.S. Supreme Court. These records have long-term legal value in the conduct of Rule 32 collateral and habeas corpus proceedings, and provide historical evidence of the prosecuting function of the Office of the Attorney General as it relates to capital offenses. These cases also document the position the state takes with regard to capital punishment. **(Bibliographic Title: Capital Litigation Inactive Transcripts)**
- **Criminal Appeals Legal Case Files (Cases with a Sentence of Death or Life Without Parole).** These files document all of the activity involved in handling the prosecution of

and the subsequent appeals through all the appellate courts. Many of these cases set precedent, and all of them have long-term legal value to the Office of the Attorney General until the final closure of the case file. These records provide historical evidence of the prosecuting function of the Office of the Attorney General. **(Bibliographic Title: Criminal Appeals Legal Case Files)**

- **Criminal Appeals Inactive Transcripts (Cases with a Sentence of Death or Life Without Parole).** These transcripts document criminal appeals hearings. Many of these cases set precedent, and all of them have long-term legal value to the Office of the Attorney General until the final closure of the case file. These records provide historical evidence of the prosecuting function of the Office of the Attorney General. **(Bibliographic Title: Criminal Appeals Inactive Transcripts)**

Appointing

- **Deputy Attorneys General Appointment Letters (DAG Letters).** These records provide the best evidence of the agency's activities in appointing deputy attorney generals. The records are not duplicated in the correspondence of the attorney general, nor the records of the Secretary of State, nor in the Office of the Governor (Code of Alabama 1975 § 36-15-15.1). **(Bibliographic Title: Deputy Attorneys General Appointment Files)**

Administering Internal Operations

- **Informational and Promotional Materials.** These records are created to build public awareness about a variety of issues and department related activities. Records in this series may include but are not limited to press releases, pamphlets, brochures, newsletters, and leaflets. The publications are necessary to document public protection and guidance to consumers. **(Bibliographic Title: Publicity Files)**
- **Policies and Procedures.** These manuals are designed to assist in the conduct of day-today operations. **(Bibliographic Title: Policies and Procedures)**
- **Administrative Rules and Regulations.** These rules and regulations are approved by the agency and govern the conduct of the Attorney General and staff. Combined with the policies and procedures manuals, they document the agency's roles in prescribing standards for its programs. **(Bibliographic Title: Rules and Regulations)**
- **Register of Administrative Rules.** Each agency shall have an officer [who] shall file in the office of the Secretary of State a certified copy of each rule adopted by it. The secretary of the agency shall keep a permanent register of the rules open to public inspection. (Code of Alabama 1975 § 41-22-6) **(Bibliographic Title: Not Applicable) (Maintained by the Office of the Attorney General)**
- **Administrative Files that Document Policy, Process, and Procedure.** These records, which include official correspondence of the agency, document actions and positions of

the agency and do not include correspondence dealing with routine matters. These records may be paper or electronic, but expressly exclude routine interoffice correspondence, i.e., memos, e-mails and unofficial records dealing with administrative and personnel actions. **(Bibliographic Title: Administrative Correspondence)**

- **Website and Social Media Site(s).** The department maintains an extensive website at www.ago.alabama.gov and social media sites at Facebook, Twitter, and YouTube. This series documents primary functions of the agency. ADAH staff capture and preserves the agency's website and other social media sites via a service offered by the Internet Archive [Archive-It]. Any content behind password protected or login would not be captured by ADAH. Check with the ADAH website at www.archiveit.org/organizations/62 to ensure your agency and social media site(s) are captured and preserved. If your agency's website and social media site(s) are not being captured by the service, please contact the Archives Division at 334-242-4452 to get them included. **(Bibliographic Title: Website and Social Media Site[s])**
- **Quadrennial Reports of the Attorney General.** In October of the last year of the attorney general's term in office, the attorney general compiles a report to include suggestions for the suppression of crime and the improvement of the criminal administration in the state. The report also includes the number of criminal cases disposed of in the state for the past four years; the number of acquittals; the number of *nolle prosequi* entered; the number of cases which were abated or otherwise disposed of; the number of death sentences; the number of sentences to the penitentiary; the number of other sentences, including fines imposed; and the totals for each category. One copy of the report remains with the Office of the Attorney General. This report provides summary information for all the legal actions taken by district attorneys and the staff of the Office of the Attorney General (Code of Alabama 1975 § 36-15-1-(4)). **(Bibliographic Title: State Publications)**
- **Correspondence of the Attorney General and Chief Deputy Attorney General.** These records provide, along with the subject matter files, the best documentation of the activities of the attorney general as a constitutional officer and as an advisor to the governor and the legislature on the passage and codification of laws. These files will document many of the cases handled by the agency and the development of legislation, as well as issues of interest to the attorney general. **(Bibliographic Title: Administrative Correspondence)**
- **Speeches and Subject Matter Files of the Attorney General (Including Juvenile Justice, Equity Funding in Education, Office Policies, Procedures, State Department Files).** These records provide, along with the correspondence files, the best documentation of the activities of the attorney general in the performance of his/her duties as a constitutional officer and as an advisor to the governor and the legislature on the passage and codification of laws. These files provide information on subjects of particular interest to the attorney general. **(Bibliographic Title: Administrative Files)**

Permanent Records List

Alabama Office of the Attorney General

Advising

1. Firearms Petitions (Correspondence of the Attorney General)
2. Official Opinions (Includes Opinions and Supporting Documentation)
3. Official Opinions (Electronic Compilations)

Representing

1. Special Legal Case Files (Constitutional Defense, Environmental, General Civil, Medicaid Fraud, Criminal Trials, Special Prosecutions, and All Other Special Litigation/Cases)
2. Capital Litigation Case Files
3. Capital Litigation Inactive Transcripts
4. Criminal Appeals Legal Case Files (Cases with a Sentence of Death or Life Without Parole)
5. Criminal Appeals Inactive Transcripts (Cases with a Sentence of Death or Life Without Parole)

Appointing

1. Deputy Attorneys General Appointment Letters (DAG Letters)

Administering Internal Operations

1. Informational and Promotional Materials
2. Policies and Procedures
3. Administrative Rules and Regulations
4. Register of Administrative Rules*
5. Administrative Files that Document Policy, Process, and Procedure
6. Website and Social Media Site(s)
7. Quadrennial Reports of the Attorney General
8. Correspondence of the Attorney General and Chief Deputy Attorney General
9. Speeches and Subject Matter Files of the Attorney General (Including Juvenile Justice, Equity Funding in Education, Office Policies, Procedures, State Department Files)

*indicates records that ADAH anticipates will remain in the care and custody of the creating agency.

ADAH staff members are available to work with agency staff in determining the best location and storage conditions for the long-term care and maintenance of permanent records.

Alabama Office of the Attorney General Records Disposition Authority

This Records Disposition Authority (RDA) is issued by the State Records Commission under the authority granted by the Code of Alabama 1975, Sections 41-13-5 and 41-13-20 through 21. It was compiled by the Archives Division, Alabama Department of Archives and History (ADAH), which serves as the Commission's staff, in cooperation with representatives of the Agency. The RDA lists records created and maintained by the Agency in carrying out their mandated functions and activities. It establishes minimum retention periods and disposition instructions for those records and provides the legal authority for the Agency to implement records destruction.

Alabama law requires public officials to create and maintain records that document the business of their offices. These records must be protected from "mutilation, loss, or destruction," so that they may be transferred to an official's successor in office and may be made available to members of the public. Records also must be kept in accordance with auditing standards approved by the Examiners of Public Accounts (Code of Alabama 1975, Sections 36-12-2, 36-12-4, and 41-5-23). For assistance in implementing this RDA, or for advice on records disposition or other records management concerns, contact the agency records manager or ADAH Archives Division at (334) 242-4452.

Explanation of Records Requirements

The RDA shall govern the disposition of all records, regardless of format, created by the agency from creation to dissolution. Please contact the staff of the Department of Archives and History before destroying any records created prior to 1940.

This RDA supersedes any previous records disposition schedules or RDAs governing the retention of the records created by the Agency. Copies of superseded schedules are no longer valid and may not be used for records disposition.

The RDA establishes retention and disposition instructions for records listed below, regardless of the medium on which those records may be kept. Electronic mail, for example, is a communications tool that may record permanent or temporary information. As for records in any other format, the retention periods for e-mail records are governed by the requirements of the subfunctions to which the records belong.

Certain other record-like materials are not actually regarded as official records and may be disposed of under this RDA. Such materials include (1) duplicate record copies that do not require official action, so long as the creating office maintains the original record for the period required; (2) catalogs, trade journals, and other publications received that require no action and do not document agency activities; (3) stocks of blank stationery, blank forms, or other surplus materials that are not subject to audit and have become obsolete; (4) transitory records, which are temporary records created for short-term, internal purposes, may include, but are not limited to, telephone call-back messages, drafts of ordinary documents not needed for their evidential value, copies of material sent for information purposes but not needed by the receiving office for future

business, and internal communications about social activities; (5) honorary materials, plaques, awards, presentations, certificates, and gifts received or maintained by the agency staff. They may be disposed of without documentation of destruction.

Records Disposition Requirements

This section of the RDA is arranged by subfunctions of the Agency and lists the groups of records created and/or maintained as a result of activities and transactions performed in carrying out these subfunctions. The Agency may submit requests to revise specific records disposition requirements to the State Records Commission for consideration at its regular biannual meetings.

Advising

Advising: Executive

FIREARMS PETITIONS (CORRESPONDENCE OF THE ATTORNEY GENERAL)
Disposition: PERMANENT RECORD.

Advising: General Civil and Administrative Law

Administrative Hearings Case Files (includes correspondence, transcripts, and orders)
Disposition: Temporary Record. Retain for the duration of the case.

Advising: Opinions

OFFICIAL OPINIONS (INCLUDES OPINIONS AND SUPPORTING DOCUMENTATION)
Disposition: PERMANENT RECORD.

OFFICIAL OPINIONS (ELECTRONIC COMPILATIONS)
Disposition: PERMANENT RECORD.

Opinion Correspondence (no opinion issued), Withdrawn Opinion Requests, and Resolution Requested Letters
Disposition: Temporary Record. Retain 4 years after creation.

Opinions Research and Working Files
Disposition: Temporary Record. Retain 1 year.

Opinions Litigation, Pre-litigation Materials, Agency Research, and Working Files
Disposition: Temporary Record. Retain 1 year in the Office of the Attorney General then transfer to appropriate agency.

Opinions Firearms Petitions (not correspondence of the attorney general)
Disposition: Temporary Record. Retain 3 years after creation.

Representing

SPECIAL LEGAL CASE FILES (CONSTITUTIONAL DEFENSE, ENVIRONMENTAL, GENERAL CIVIL, MEDICAID FRAUD, CRIMINAL TRIALS, SPECIAL PROSECUTIONS, AND ALL OTHER SPECIAL LITIGATION/CASES)

Disposition: PERMANENT RECORD.

Representing: Capital Litigation

CAPITAL LITIGATION CASE FILES

Disposition: PERMANENT RECORD.

CAPITAL LITIGATION INACTIVE TRANSCRIPTS

Disposition: PERMANENT RECORD.

Representing: Consumer Interest

Written Consumer Complaint Files

Disposition: Temporary Record. Retain 4 years after final dispensation.

Consumer Class Actions

Disposition: Temporary Record. Retain 4 years after final dispensation.

Consumer Registration and Renewal Files

Disposition: Temporary Record. Retain 4 years after final dispensation.

Consumer Telemarketing Registration and Renewal Files

Disposition: Temporary Record. Retain 4 years after final dispensation.

Consumer Legal Case Files (Civil Cases)

Disposition: Temporary Record. Retain 4 years after final dispensation.

Consumer Legal Case Files (Criminal Cases)

Disposition: Temporary Record. Retain 10 years after final dispensation.

Environmental Legal Case Files (Non-Special Cases)

Disposition: Temporary Record. Retain 20 years after final dispensation.

Utilities Files

Disposition: Temporary Record. Retain 1 year after cessation of business of the utility company.

Representing: Criminal Appeals

CRIMINAL APPEALS LEGAL CASE FILES (CASES WITH A SENTENCE OF DEATH OR LIFE WITHOUT PAROLE)

Disposition: PERMANENT RECORD.

CRIMINAL APPEALS INACTIVE TRANSCRIPTS (CASES WITH A SENTENCE OF DEATH OR LIFE WITHOUT PAROLE)

Disposition: PERMANENT RECORD.

Criminal Appeals Legal Case Files (cases with a sentence other than death or life without parole)

Disposition: Temporary Record. Retain 20 years after final dispensation.

Criminal Appeals Inactive Transcripts (cases with a sentence other than death or life without parole)

Disposition: Temporary Record. Retain 10 years after final dispensation.

Representing: Constitutional Defense

Constitutional Defense Division Files (Non-Special Cases)

Disposition: Temporary Record. Retain 10 years after final dispensation.

Representing: Criminal Trials

Criminal Trials Division Case Files (Non-Special Cases)

Disposition: Temporary Record. Retain 10 years after final dispensation.

Victims Assistance Files

Disposition: Temporary Record. Retain for 10 years after discharge of individual or other release of inmate.

Representing: Executive

Legislative Affairs Working Files

Disposition: Temporary Record. Retain 4 years.

Constituent Affairs Working Files

Disposition: Temporary Record. Retain 4 years.

Public Relations Working Files

Disposition: Temporary Record. Retain 4 years.

Law Enforcement Relations Working Files

Disposition: Temporary Record. Retain 4 years.

Representing: General Civil and Administrative Law

General Civil and Administrative Legal Case Files (Non-Special Cases)

Disposition: Temporary Record. Retain 6 years after final dispensation.

Docket of Civil Actions and Claims

Disposition: Temporary Record. Retain for useful life.

Representing: Medicaid Fraud**Medicaid Fraud Control Unit (MFCU) Files (Non-Special Cases)**

Disposition: Temporary Record. Retain 6 years after final dispensation.

Representing: Special Prosecution**Special Prosecutions Division Case Files (Non-Special Cases)**

Disposition: Temporary Record. Retain 10 years after final dispensation.

Investigating**Investigation Files**

Disposition: Temporary Record. These records are to be retained according to the established retention of the corresponding case file.

Investigating: Administrative Services**Records of Equal Employment Opportunity Commission Complaint Files**

Disposition: Temporary Record. Retain 10 years after final dispensation.

Investigating: Consumer Interest**Consumer Investigation Case Files**

Disposition: Temporary Record. Retain 4 years after final dispensation.

Environmental Investigation Supporting Documents

Disposition: Temporary Record. These records are to be retained according to the established retention of the corresponding case file.

Appointing**Appointing: Executive****DEPUTY ATTORNEYS GENERAL APPOINTMENT LETTERS (DAG LETTERS)**

Disposition: PERMANENT RECORD.

Administering Internal Operations: Managing the Agency**Routine Correspondence (includes requests for information)**

Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Administrative Reference Files

Disposition: Temporary Record. Retain for useful life.

Minutes of Staff Meetings

Disposition: Temporary Record. Retain 1 year.

Mailing Lists

Disposition: Temporary Record. Retain for useful life.

INFORMATIONAL AND PROMOTIONAL MATERIALS

Disposition: PERMANENT RECORD.

Administering Internal Operations: Managing the Agency: Administrative Services**POLICIES AND PROCEDURES**

Disposition: PERMANENT RECORD.

ADMINISTRATIVE RULES AND REGULATIONS

Disposition: PERMANENT RECORD.

REGISTER OF ADMINISTRATIVE RULES

Disposition: PERMANENT RECORD. Retain in Office (Code of Alabama 1975 § 41-22-6).

Administrative Rule Files

Disposition: Temporary Record. Retain for useful life.

ADMINISTRATIVE FILES THAT DOCUMENT POLICY, PROCESS, AND PROCEDURE

Disposition: PERMANENT RECORD.

WEBSITE AND SOCIAL MEDIA SITE(S)

Disposition: PERMANENT RECORD.

Note: ADAH staff capture and preserve the agency's website and other social media sites via a service offered by the Internet Archive [Archive It]. Any content behind password protected or login would not be captured by ADAH. Check with the ADAH website at www.archiveit.org/organizations/62 to ensure your agency and social media site(s) are captured and preserved. If your agency's website and social media site(s) are not captured by the service, please contact the Archives Division at 334-242-4452 to get them included.

EEOC Files (records documenting legal cases involving internal operations)

Disposition: Temporary Record. Retain 6 years after final settlement.

Records documenting the implementation of the agency's approved RDA (copies of transmittal forms to Archives or State Records Center, evidence of obsolete records destroyed, and annual reports to State Records Commission)

Disposition: Temporary Record. Retain 1 year after audit after the end of the fiscal year in which the RDA was superseded.

Copies of Approved RDA

Disposition: Temporary Record. Retain 1 year after the audit for the fiscal year in which the RDA is superseded.

Computer Systems Documentation (Hardware/Software Specifications and Warranties)

Disposition: Temporary Record. Retain documentation of former system 1 year after audit for the fiscal year in which the former hardware and software no longer exists anywhere in the agency and all permanent records have been migrated to a new system.

Administering Internal Operations: Managing the Agency: Executive

QUADRENNIAL REPORTS OF THE ATTORNEY GENERAL

Disposition: PERMANENT RECORD.

CORRESPONDENCE OF THE ATTORNEY GENERAL AND CHIEF DEPUTY ATTORNEY GENERAL

Disposition: PERMANENT RECORD.

SPEECHES AND SUBJECT MATTER FILES OF THE ATTORNEY GENERAL (INCLUDING JUVENILE JUSTICE, EQUITY FUNDING IN EDUCATION, OFFICE POLICIES, PROCEDURES, STATE DEPARTMENT FILES)

Disposition: PERMANENT RECORD.

Administering Internal Operations: Managing Finances

Records documenting the preparation of a budget request package and reporting of the status of funds, requesting amendments of allotments, and reporting program performance

Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Records documenting the requisitioning and purchasing of supplies and equipment, receipting and invoicing for goods, and authorizing payment for products

Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Records of original entry such as journals, registers, and ledgers; and records of funds deposited inside and outside the state treasury

Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Purchase and Repair Order Documents

Disposition: Temporary Record. Retain for life of warranty.

Records documenting requests for authorization from supervisors to travel on official business and other related materials, such as travel reimbursement forms and itineraries

Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Contractual records established for the purpose of services or personal property

Disposition: Temporary Record. Retain 6 years after expiration of the contract.

Records documenting the bid process (including requests for proposals and unsuccessful responses)

a. Sealed Bids over \$15,000

Disposition: Temporary Record. Retain 7 years after the end of the fiscal year in which the bids were opened. (Code of Alabama 1975 § 41-16-24).

b. Other Bids

Disposition: Temporary Record. Retain for 10 years after the award of the contract, then destroy.

Agency Audit Reports

Disposition: Temporary Record. Retain 6 years after end of the fiscal year in which the records were created.

Administering Internal Operations: Managing Human Resources

Section/Division Personnel Files

Disposition: Temporary Record. Retain until separation of an employee from the agency.

Administering Internal Operations: Managing Human Resources: Administrative Services

Job Recruitment Materials

Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Application Materials

Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Position Classification Records

Disposition: Temporary Record. Retain 4 years after reclassification of the position.

Certification of Eligibles for Employment

Disposition: Temporary Record. Retain until superseded.

Records documenting payroll (e.g. pre-payroll reports, payroll check registers)

Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Records documenting payroll deduction authorizations

Disposition: Temporary Record. Retain 6 years after separation of employee from the agency.

Records documenting payroll deductions for tax purposes (including Form 941)

Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Records documenting employee hours worked, leave earned, leave taken, and leave donation

Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Personnel – Records documenting an employee's work history -generally maintained as a case file

Disposition: Temporary Record. Retain 6 years after separation of an employee from the agency.

Records documenting employees' daily and weekly work schedules

Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Records Documenting Leave Donations

Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Records of Final Leave Status

Disposition: Temporary Record. Retain record of individual employees' cumulative leave 6 years after separation of employee from the agency.

Employee Flexible Benefits Plan Files (applications and correspondence)

Disposition: Temporary Record. Retain 6 years after termination of participation in program.

Records documenting the State Employee Injury Compensation Trust Fund (SEICTF) Claims

Disposition: Temporary Record. Retain 6 years after separation of the employee from the agency.

Records documenting Equal Employment Opportunity Commission (EEOC) Charges of Discrimination

Disposition: Temporary Record. Retain 6 years after final dispensation.

Equal Employment Opportunity Commission Case Files

Disposition: Temporary Record. Retain 3 years.

Employee Administrative Hearing Files

Disposition: Temporary Record. Retain 6 years after separation of the employee from the agency.

Records Documenting Employee Grievances (Internal Complaints)

Disposition: Temporary Record. Retain 6 years after separation of the employee from the agency.

Records documenting complaints against the agency and its employees from outside the agency (made by members of the public, officials, or supervisees, etc.)

Disposition: Temporary Record. Retain 6 years after separation of the employee from the agency.

Records (maintained separately from employee personnel file), documenting employee disciplinary proceedings and appeals of formal reprimands, demotions, transfers, or terminations resulting from a grievance or complaint

Disposition: Temporary Record. Retain 6 years after separation of the employee from the agency.

Records documenting the administration of the unemployment compensation program

Disposition: Temporary Record. Retain 6 years after conclusion of eligibility.

Administering Internal Operations: Managing Properties, Facilities, and Resources

Semiannual Inventory Lists

Disposition: Temporary Record. Retain 1 year after compliance or financial audit. (Code of Alabama 1975 § 36-16-8[1]).

Agency Copies of Transfer of State Property Forms (SD-1)

Disposition: Temporary Record. Retain 1 year after compliance or financial audit.

Property Inventory Cards and/or Computer Files

Disposition: Temporary Record. Retain 1 year after compliance or financial audit.

Property Inventory Affidavits

Disposition: Temporary Record. Retain 1 year after compliance or financial audit.

Receipts of Responsibility for Property

Disposition: Temporary Record. Retain until return of item to property manager.

Records documenting the lease or rental of office or warehouse space for the department

Disposition: Temporary Record. Retain 6 years after expiration of the lease.

Facilities/Building Security Records (including visitor logs)

Disposition: Temporary Record. Retain 1 year after compliance or financial audit.

Requirement and Recommendations for Implementing the Records Disposition Authority (RDA)

Requirement

Under the Code of Alabama 1975, § 41-13-21, “no state officer or agency head shall cause any state record to be destroyed or otherwise disposed of without first obtaining approval of the State Records Commission.” This Records Disposition Authority constitutes authorization by the State Records Commission for the disposition of the records of the Agency as stipulated in this document.

One condition of this authorization is that the Agency submit an annual Records Disposition Authority (RDA) Implementation Report on its activities, including documentation of records destruction, to the State Records Commission.

Recommendations

In addition, the Agency should make every effort to establish and maintain a quality record-keeping program by conducting the following activities:

The Agency should designate a staff member in a managerial position as its records liaison/records manager, who is responsible for: ensuring the development of quality record keeping systems that meet the business and legal needs of the agency, coordinating the transfer and destruction of records, ensuring that permanent records held on alternative storage media (such as microforms and digital imaging systems) are maintained in compliance with national and state standards, and ensuring the regular implementation of the agency’s approved RDA.

Permanent records in the Agency’s custody should be maintained under proper intellectual control and in an environment that will ensure their physical order and preservation.

Destruction of temporary records, as authorized in this RDA, should occur agency-wide on a regular basis—for example, after the successful completion of an audit, at the end of an administration, or at the end of a fiscal year. Despite the RDA’s provisions, no record should be destroyed that is necessary to comply with requirements of the Open Meetings Act, audit requirements, or any legal notice or subpoena.

The agency should maintain full documentation of any computerized record-keeping system it employs. It should develop procedures for: (1) backing up all permanent records held in electronic format; (2) storing a back-up copy off-site; and (3) migrating all permanent records when the system is upgraded or replaced. If the agency chooses to maintain permanent records solely in electronic format, it is committed to funding any system upgrades and migration strategies necessary to ensure the records’ permanent preservation and accessibility.

Electronic mail contains permanent, temporary, or transitory record information. Although e-mail records can be printed out, filed, and retained according to the RDA’s requirements, the

office should preferably employ an electronic records management system capable of sorting e-mail into folders and archiving messages having long-term value.

The staff of the State Records Commission or the Examiners of Public Accounts may examine the condition of the permanent records maintained in the custody of the Agency and inspect records destruction documentation. Agency records managers and/or the ADAH archivists are available to instruct the staff in RDA implementation and otherwise assist the Agency in implementing its records management program.

The State Records Commission adopted this records disposition authority on April 24, 2019.

Steve Murray, Chairman
State Records Commission

Date

By signing below, the agency acknowledges receipt of the retention periods and requirements established by the records disposition authority.

Steve Marshall, Attorney General
Alabama Office of the Attorney General

Date

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