



CHAPTER 11

Fire Prevention Records and Record Keeping

LEARNING OBJECTIVES

Upon completion of this chapter, you should be able to:

- Describe what is meant by the terms *public record* and *retention schedule*.
- Describe the Freedom of Information Act (FOIA) and its impact on fire prevention bureau functions.
- Discuss the reasons for the exemptions included in the FOIA.
- Discuss the role of an information management system (IMS) within fire prevention bureau operations, and compare and contrast the benefits of using manual and electronic systems.
- Discuss the importance of adequately planning and implementing an electronic IMS.

Case Study



A 2012 Florida State Fire Marshal's Office report noted that a Jacksonville fire inspector inspected 1670 businesses the prior year and only reported violations in 10. When questioned by State Fire Marshal investigators, the inspector claimed he did not report violations so he would not have to perform follow-up inspections.

He stated the department emphasized new construction inspections as they produced revenue; re-inspections did not generate additional revenue.

Business owners described the inspector as polite, and several claimed the inspector told them of violations and ordered them to make repairs without issuing a written notice or following up. A task force of Florida state and Jacksonville inspectors re-inspected all 1607 businesses and found numerous violations. The inspector was disciplined and has filed suit. The Jacksonville Fire Department reported it collects about \$1.4 million in inspection fees for close to 20,000 routine inspections per year.

1. How should inspection priorities be determined?
2. Is revenue generation a valid basis for determining inspection priorities?
3. How could an electronic inspections reporting system have identified the situation in Jacksonville before it was discovered by supervisors?

Information for this case study came from: Steve Patterson, "Fire Violations Weren't Logged in Jacksonville Records; Inspector Sues After Being Investigated," *Florida Times Union*, October 4, 2014. Available at: <http://members.jacksonville.com/news/metro/2014-10-04/story/fire-violations-werent-logged-jacksonville-records-inspector-sues-after>

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Introduction

Similar to records of any government agency or entity, records generated by and in the possession of fire prevention bureaus are **public records**. *Public record* is a legal term used by federal and state governments to refer to documents concerning the public, but it does not necessarily mean they are open for public view. Within the federal and state legal systems, there exists a complex set of laws and regulations regarding the management, retention, disclosure, and destruction of public records **Figure 11-1**.

These laws and regulations should impact the typical fire prevention program by guiding the agency in the development of their records management systems. The agency's day-to-day operations must reflect the existence of these laws and regulations. The potential consequences if these laws and regulations



Figure 11-1 Records management is one of the most vital aspects of any fire prevention program.

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are disregarded are almost too far reaching to contemplate. Government document managers who fail to follow prescribed rules could be disciplined or even face civil actions. Public employees whose malicious actions fall outside the regulations could be criminally prosecuted and face incarceration.

What information do these public records within the fire prevention bureau contain that can lead to so much trouble? Although political subdivisions might differ slightly, the common legal definition of public record is:

A record, memorial of some act or transaction, written evidence of something done, or document, considered as either concerning or interesting the public, or open to public inspection. Any “writing” prepared, owned, used or retained by any agency in pursuance of law or in connection with the transaction of public business; and, “writings” means all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts or other documentary material, regardless of physical form or characteristics.

Reproduced from: M.J. Connolly, et al., *Black’s Law Dictionary*, 6th ed. (Saint Paul: West Publishing, 1991), page 882. Reprinted with permission of Thomson Reuters .

Examples that might readily come to mind include inspection reports, notices of violation, plan review letters, permit applications, and related correspondence, whether in paper or electronic format. Other materials that might be less apparent include bureau phone logs, inspector’s field notes and daily logs, inspection photographs, third-party inspection reports, and fuel or materials inventories submitted by businesses and in the possession of the agency, even if they are not the agency’s property. Documents such as fire investigation reports, witness statements, fire scene photographs, and autopsy reports are also public records, although they are not all necessarily available to the general public.

Tip

Public records range from inspection reports to witness statements, although not every type is available to the general public.

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Legal Requirements for Record Keeping

The federal laws regarding public records within the federal government are in Title 44 of the United States Code. Each state has statutes regarding records management by the state government and the political subdivisions within the state. Regardless of whether a fire prevention program is operated as a governmental function or by a private concern, the laws regarding public records impact the program. Records are generated by or for the government organization or are submitted under some requirement to the government agency—this is what qualifies the records as public records. This means that everything regarding the record’s birth, life, and eventual destruction should be in accordance with the appropriate law or regulation.

Freedom of Information and Public Access Laws

A popular Government without popular information or the means of acquiring it, is but a Prologue to a Farce or a Tragedy or perhaps both. Knowledge will forever govern ignorance, and the people who mean to be their own Governors, must arm themselves with the power that knowledge gives.

—James Madison

Reproduced from: Directorate for Freedom of Information and Security Review, *DOD Freedom*

of *Information Act Handbook* (Washington, DC: Department of Defense, 2003), page 1.

The preceding statement from the fourth president of the United States and “Father of the Constitution” is used as the introduction to the *DOD Freedom of Information Act Handbook*.¹ Distributed by the Department of Defense’s (DOD’s) Directorate for Freedom of Information, the handbook is a guide for the public about requesting information from the DOD.

A federal law requires the DOD to release certain information, and the fire service is similarly affected. The public safety veil does not exempt the fire department or fire prevention bureau from releasing public information. Within certain limitations, all government agencies and entities are required by law to make information concerning the workings of government available to the people.

Tip

Information concerning the workings of government must be available to the public, by law.

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In 1967, President Lyndon Johnson signed the *Freedom of Information Act* (FOIA) passed by Congress, making it the law of the land. It was intended to open the workings of government to the public and was the first law that gave Americans access to the records of federal agencies. Most Americans did not rush to Washington, DC, to rifle through file cabinets, but press access to agencies and their information was significantly increased. The states followed with their own statutes that ensured access to records and prohibited deliberation by public officials except in duly advertised public meetings.

Exceptions

There are exceptions to the federal and state [freedom of information and public access laws](#). Generally, ongoing criminal investigations, medical records, personnel records, items affecting national security,

trade secrets, and attorney–client communications are exempt from disclosure. Many state statutes have been amended in the wake of the events of September 11, 2001, to include critical infrastructure in the list of exemptions.

Copyrighted materials such as codebooks, fire protection plans, and fire protection directories or installation manuals may be accessible for viewing, but photocopying is prohibited. [Trade secrets](#) must also be protected. If the formula for Coca-Cola is somehow part of a materials inventory statement submitted to ensure fire code compliance, the fire prevention bureau is responsible for ensuring that it remains a secret. Allowing trade secrets to be released and potentially used by business competitors is illegal and unethical.

Tip

Fire prevention bureaus are responsible for protecting any trade secrets that may be included in public records.

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Practical Application

How do these laws potentially affect those in the fire prevention business? For government employees, the impact is extensive. Jurisdictions need to have policies that ensure compliance while maintaining necessary safeguards. Individual employees should never freelance or attempt to make legal determinations as to whether exemptions exist. When in doubt, the jurisdiction’s legal representative should be immediately contacted.

Tip

Contact the jurisdiction’s legal representative to clarify any questions about whether exemptions exist.

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Meetings of the governing body and appointed boards and commissions must also comply. If the fire code appeals board is scheduled to hear an appeal at 7:00 p.m., it is illegal for the board members to discuss the matter in the parking lot while entering the building at 6:45. Discussions must take place in public at the appointed time, where all interested parties have the opportunity to observe the proceedings. In the past, government business was sometimes conducted in secret in order to exclude certain groups. Freedom of Information or Sunshine laws were passed to end that practice.

Record Retention and Storage

The maintenance of records by fire prevention bureaus is generally governed by regulations promulgated under state statutes by a state entity that serves as the state archivist. Regulations for the retention and storage of records of fire departments and fire prevention bureaus within the State of Texas can be found in *Local Schedule PS, Retention Schedule for Records of Public Safety Agencies* **Figure 11-2** and



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LOCAL SCHEDULE PS (Third Edition)

RETENTION SCHEDULE FOR RECORDS OF PUBLIC SAFETY AGENCIES

This schedule establishes mandatory minimum retention periods for records commonly found in public safety agencies. No local government office may dispose of a record listed in this schedule prior to the expiration of its retention period. A records control schedule of a local government may not set a retention period that is less than that established for the record in this schedule. Original paper records listed in this schedule may be disposed of prior to the expiration of their minimum retention periods if they have been microfilmed or electronically stored pursuant to the provisions of the Local Government Code, Chapter 204 or Chapter 205, as applicable, and rules of the Texas State Library and Archives Commission adopted under authority of those chapters. Actual disposal of such records by a local government is subject to the policies and procedures of its records management program.

Destruction of local government records contrary to the provisions of the Local Government Records Act of 1989 and administrative rules adopted under it, including this schedule, is a Class A misdemeanor and, under certain circumstances, a third degree felony (Penal Code, Section 37.10). Anyone destroying local government records without legal authorization may also be subject to criminal penalties and fines under the Public Information Act (Government Code, Chapter 552).

Figure 11-2 Records retention and maintenance are generally regulated by state archivists.

Courtesy of Texas State Library and Archives Commission. <https://www.tsl.texas.gov/sites/default/files/public/tslac/slrn/recordspubs/Schedule%20PS%20-%20Effective%202011-08-14.pdf>

Record Number	Record Title	Record Description	Retention Period	Remarks
*PS4475-01b	ALARM PERMITS AND ASSOCIATED DOCUMENTATION	Applications for fire detection and alarm permits and copies of permits or other documentation evidencing issuance.	Expiration or revocation of permit + 3 years for granted permits; date of denial + 1 year for denied permits.	
*PS4475-01c	ALARM PERMITS AND ASSOCIATED DOCUMENTATION	Inspection or evaluation reports prepared during a permit period, if permits are required by local policy.	3 years.	
PS4475-02	AUTOMATIC SPRINKLER SYSTEM PERMITS AND ASSOCIATED DOCUMENTATION			
PS4475-02a	AUTOMATIC SPRINKLER SYSTEM PERMITS AND ASSOCIATED DOCUMENTATION	Automatic sprinkler material and test certificates filed with fire agencies.	Life of system.	
*PS4475-02b	AUTOMATIC SPRINKLER SYSTEM PERMITS AND ASSOCIATED DOCUMENTATION	Applications for automatic sprinkler system permits, copies of permits or other documentation evidencing issuance.	Expiration or revocation of permit + 3 years for granted permits; date of denial + 1 year for denied permits.	
*PS4475-02c	AUTOMATIC SPRINKLER SYSTEM PERMITS AND ASSOCIATED DOCUMENTATION	Inspection or evaluation reports prepared during a permit period, if permits are required by local policy.	3 years.	
PS4475-03	CERTIFICATES OF OCCUPANCY	Copies of certificates of occupancy or record of their issuance used to certify final approval for the occupancy of new structures or old structures that have been remodeled to the extent that a certificate of occupancy is required by local policy.	AV, but see retention note.	Retention Note: In a municipality or in any other local government that has authority to certify occupancy, certificates of occupancy must be retained in accordance with item number PW5250-06, if it is the fire agency rather than a building inspection, planning, or other department that issues the official certificate of occupancy or its equivalent.
PS4475-04	COMPLAINTS	Complaints regarding possible violations of the fire code or potential fire hazards.	Resolution of the complaint + 3 years.	

Figure 11-2 (Continued)

Table 11-1 . Failure to retain the records in accordance with the regulations is a criminal act.

Tip

Reference retention schedules for records storage and retention time frames.

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Records Management Systems

Records of activities are collected or organized into some type of system. A stack of business cards in a desk drawer, waiting to put into alphabetical order, is an example of an information management system (IMS). It is not a very efficient IMS because locating

a desired business contact requires manually looking at every card, but it is a system nonetheless.

Effective records management is essential for an effective fire prevention program. Records of inspections, plan reviews, and investigations are the basis for criminal and civil actions. Cases can be won or lost based on a single report, and by extension, on the ability to find a single report.

Tip

The ability to locate an individual report when needed can affect the outcome of a case.

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In addition to legal issues regarding fire inspection and investigation records, there are the business issues to consider. Fire prevention bureaus and state

Table 11-1 Retention Schedules for Fire Prevention and Inspection Records Within the State of Texas

Record	Retention
Alarm and detection system permits	3 years for approved permits 1 year for rejected permits
Sprinkler system test and material certification	Life of the system
Sprinkler system permits	3 years for approved permits 1 year for rejected permits
Certificates of occupancy	As long as administratively valuable
Complaints	3 years from resolution of the complaint
Controlled burn records	1 year
Drill and simulation records	5 years
Hazardous materials permits	3 years for approved permits 1 year for rejected permits
Inspection reports and logs	3 years if master record for the structure is maintained for the life of the building
Notice of violation	3 years from correction of the violation
Plan review records	As long as administratively valuable

Modified from: Local Schedule PS, Retention Schedule for Records of Public Safety Agencies, 3rd ed. (Austin: Texas State Library and Archives Commission, August 14, 2011).

fire marshal offices are subgroups or sections within larger agencies, usually a part of government. Governments may not be businesses in the true sense, but some business issues are fundamental to the success and survival of organizations and their missions.

Terms such as *budget*, *funding*, *expenditures*, *cost recovery*, *management indicators*, and *productivity* are not found in most firefighting texts, but skill in performing these “business” functions of government is every bit as important to the success of the mission as preventing or extinguishing fires. Many inspections cannot be performed without vehicles and fuel. The hose carried on fire apparatus has to be purchased, but it must be justified within a budget first. To justify funding and expenditures, statistics for various functions performed by the unit are vital. The same statistics are used to measure the effectiveness of a fire prevention program, identify trends, and compare the jurisdiction’s fire experience with that of other localities and the nation.

Information on inspections, investigations, plan review, and public education activities should be tracked and reported by employees, by work groups, and for the bureau as a whole. Care should be taken to identify useful information elements that are clearly defined and easily tracked. If inspections are tracked by type using terms such as *routine*, *follow-up*, and *special*, every staff member needs to understand the meaning of the terms and classifications. Discovering that half of the staff had a slightly different understanding of what constituted a “special” inspection could render months or years of statistics worthless.

Data regarding employee productivity, numbers and types of inspections, investigations, plan review activities, and public education programs can be used to justify additional staff and resources and track employee performance and can even be used as a basis for cost recovery or user fees. The importance of accurate statistics of the organization’s activities cannot be overstated.

A frequently overlooked issue is that the fire prevention bureau is part of a larger organization, normally within a government of some type. Is there value in the ability to share information with other

organizational units or with other agencies? Should the fire department operations unit have access to the hazardous materials inventory records that the fire prevention bureau has collected? Would it be useful for fire fighters responding to an alarm in the middle of the night to be able to readily access building information within the bureau’s records system?

The potential value of sharing information is enormous. The safety of emergency responders and communications within the organization and government can be enhanced. If a fire investigator on the scene has access to fire inspections records and building construction details, the complex process of determining the origin and cause of the fire might become a little easier. Time normally spent tracking down basic information on the structure produces significantly greater dividends by conducting additional interviews immediately after the fire.

Tip

There is significant potential value to sharing information across other organizational units or with other agencies.

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Types of Records Management Systems

In addition to the legal requirements for record keeping that identify security, retention, and public access, several practical requirements must be addressed. The system used must be efficient, effective, and sustainable. The information gathered should reflect the mission of the organization. Collecting and maintaining statistics should not become the mission. This important issue should not be brushed aside. Many public and private organizations have invested considerable money and effort in complex systems designed to streamline and improve records management only to find that the system actually reduced efficiency.

Records management systems range from two-drawer file cabinets to complex computer systems, with countless variations of complexity in between. But complex does not necessarily mean better. Efficiency, reliability, and ease of use are the real measures of the system. A complex electronic IMS that proves to be less reliable and more labor intensive than the manual system it replaces is a step backward—and an expensive step at that.

Manual Systems

Most organizations maintain at least some records manually. In *Managing Fire Services*, Phillip Schaenman succinctly identified the reason that few organizations ever really go paperless: “Paper is transportable and cheap, can still be used in power failures, can be looked at in private, and does not take expertise to use.”² The downside of paper records is that paper takes up considerable space and must be manually filed and searched. Manipulation of data must be accomplished by hand, making statistical study and comparison an arduous task at best. Many organizations transfer paper records to film or to electronic images in an effort to conserve space. For the most part, these images are just another form of manual systems. There are electronic systems that have **optical character recognition (OCR)** capability, meaning the system “reads” written text, translates it into digital format, and stores it as a digital record. The penmanship skills of the staff become critical when machines are used to read and translate written documents.

Electronic Information Management Systems

Computers can imitate a manual system by taking the same filing system and storing it digitally. Digital files take up less space, and the data can be sorted, searched, and manipulated by input fields such as date or address or business name. The more input fields used, the broader the capability of data manipulation. Unfortunately, each data field input requires a human action, such as keying in an address, selecting a type of occupancy from a list, or entering some other code. There is a fine line between useful data collection and useless information overload.

Tip

Determining what data to collect and track is the first and most important step in designing an electronic record keeping system. The data types should reflect the mission of the organization.

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Computerized IMSs that integrate records storage with the processes that generate records are a step up in complexity. Inspection programs that feature tablets or handheld PDAs (personal data assistants) with the ability to upload data collected in the field and generate reports are available and in use in some jurisdictions. Building information data covering every construction detail can be stored in a small hologram and applied to the main electrical panel cover. On arrival at an inspection site, the inspector simply scans the sticker, and an inspection form, complete with building information and construction details, appears on the touch screen. The inspector begins the inspection using a series of code-based checklists. At the end of the day, information can be wirelessly uploaded to the bureau's computer.

Such systems must be written for the code adopted by the jurisdiction, have the capacity to be modified to reflect code updates, and meet the legal requirements for reporting inspections. Most fire codes require that a written notice of violation be issued each time a violation is encountered. In most cases, the notice must include the unsafe condition, applicable code section, required corrective action, and date of the follow-up inspection. If the system cannot meet the legal requirements set out for the inspection process, it is useless.

Some software developers either do not have an adequate grasp of the technical needs of a fire prevention bureau or they use a consultant with fire department, but not fire prevention bureau, experience. Either situation can result in an unusable

system being developed or procured. In some cases, fire inspection or investigation modules may simply be an add-on to a program that manages shift scheduling, training records, and other fire department functions. These systems can often do a good job with adequate planning, coordination, and effort. In any case, a clear understanding of the bureau's operational needs must be clearly spelled out before a contract is negotiated.

Preliminary fire investigation reports can also be developed for tablets or PDAs, allowing investigators to scan building information in the course of investigating commercial building fires. Information for structures without stickers would be manually entered.

Technology is a two-edged sword. The potential for increasing efficiency and productivity is appealing. Without proper planning and implementation, going high tech can quickly derail any activity, and fire prevention programs are not exempt from this possibility. Before adopting an electronic IMS, a detailed analysis of the organization's operational needs must be performed and compared with the capabilities of the proposed system. Among the issues that must be considered are the following:

- The system must conform to the legal requirements of the jurisdiction for public records.
- If the system incorporates inspection, investigation, or other code or law enforcement elements, they must also meet the requirements of the jurisdiction.
- The system should meet the needs of the organization and be adaptable to normal operating procedures. Changing effective operating procedures to compensate for the shortcomings of a system that was supposed to make things more efficient is evidence of poor planning or poor communication between the organization and the vendor.
- A "smart" system will not compensate for poorly trained personnel. The notion that technology reduces the need for technical competence is a dangerous one. A poorly trained inspector or investigator equipped

with the best technology is still poorly trained and not up to the job.

- Technical support, the availability of future software updates, and integration with other systems are every bit as important as the system capability.
- Determine the life expectancy of the media used for data storage. Optical media such as CD-ROM and WORM (write once, read many) have an estimated life of about 30 years.³ Outline the steps that will be taken to preserve documents that must be maintained for longer periods of time.

The more time spent up front identifying the needs of the organization, carefully selecting the system with the best fit for the organization's needs, testing the system before going online, and training the users, the greater the chance for success.

Tip

Proper planning and implementation are essential when deciding to utilize an electronic IMS.

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Financial Records

Financial records associated with fire prevention programs are generally a very small aspect of the records system, although some fire prevention bureaus generate large sums through the use of user fees. Whether it is a \$2 fee for copying a report or several thousand dollars in permit and plan review fees for the construction of a high-rise building, financial records must be generated and maintained in accordance with the appropriate regulations.

Chapter 13, "Financial Management," provides an in-depth discussion of fee and cost recovery systems, but a discussion regarding the records associated with the process rightly belongs in this chapter. In addition to state laws regarding the financial records of government agencies, the system used by

the fire prevention bureau should conform to the system in use by its parent government organization. Fire prevention bureaus within city fire departments should consult with their city finance department counterparts for guidance. There is a good chance that the jurisdiction has an accounting system in use that can be immediately placed in service, conforms to state requirements, and will automatically generate required reports.

The notion that funds could actually be embezzled in a fire prevention bureau might seem remote, but cases of misappropriation of funds have occurred

in organizations ranging from churches and orphanages to law enforcement agencies. Financial records management systems are designed to keep honest people honest and facilitate the audit process.

Tip

Financial records management systems promote financial accountability.

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