

**Society of American Archivists
Council Conference Call
October 6, 2017
1:00 – 2:00 pm EST**

**Consent Agenda: Ratify Executive Committee Interim Actions
(Prepared by Executive Committee Member Kris Kiesling)**

BACKGROUND

Current parliamentary policy agrees on validating board decisions made remotely, and ratifying the Council's online and conference-call decisions via the Consent Agenda does not conflict with any existing SAA policy.

DISCUSSION

Given the Executive Committee's use of an e-mail discussion list to function as a group and make decisions remotely, approving interim Executive Committee actions via the Consent Agenda contributes to streamlining the group's work and improves access to the interim decisions of SAA's elected decision makers.

RECOMMENDATION

THAT the following interim actions taken by the Executive Committee in September 2017 be ratified:

- Reached out to contacts at the National Archives and Records Administration for an Explanation of Records Scheduling Process as it Applies to Proposed ICE Schedule. (See Appendix. (September 6, 2017))
- Declined to join an Associations Alliance Task Force proposed by the Association of Canadian Archivists. (September 12, 2017)

**NARA Explanation of Records Scheduling Process
as it Applies to Proposed ICE Schedule**

The records scheduling process involves an ongoing collaboration between the National Archives (NARA) and the agency that creates the schedule. NARA undertakes its review of agency records schedule disposition requests in four basic stages; receive, review, Federal Register notice and comment, and resolve. The Immigration and Customs Enforcement (ICE)

Schedule DAA-0567-2015-0013 is currently in the Federal Register notice and comment stage, and therefore, has not yet been approved by NARA. Approval (resolve stage) of schedules occurs once the Federal Register stage is complete.

During the review stage, NARA considers whether the records proposed for permanent retention warrant preservation in the National Archives and the records proposed for disposal lack permanent historical or other research value and, therefore, may eventually be destroyed. About 2 to 5 percent of federal records generated in any given year are appraised as permanent. NARA also reviews the retention periods proposed for temporary records to make sure they are retained long enough to protect the legal rights of the Government and its citizens. During this review, NARA may request an appraisal meeting with agency staff in order to understand how they use the records and their business processes, and review samples of records, as appropriate.

As the final part of the review stage, the NARA appraisers prepare analytical reports that describe the records and their informational or evidential value, the organizational context within which they are generated, and whether the agency-proposed disposition determinations are appropriate. The appraisal report will detail what changes, if any, must occur prior to NARA's preliminary approval of the schedule at this stage.

The schedule is then ready to be published in the Federal Register, and the public can request the appraisal report along with the pending schedule. The opportunity for public input is mandated by law and is integral to the scheduling and appraisal process. Members of the public have 30 days from date of publication to request copies of schedules and associated reports. Requesters then have 30 days from the date the schedule is sent to them in which to submit comments.

In the last stage, NARA and the agency resolve any issues arising from public comments and further NARA review following Federal Register publication. This can result in revisions to the schedule or sometimes even withdrawal of the schedule. Once completed, the schedule is ready for final approval by the Archivist of the United States.

Regarding the Detainee Sexual Abuse and Assault Files (Item 0001), NARA considers whether the records document individuals' legal rights accounting for the passage of time, and how usable the records are for research. In this case, NARA concluded that a long retention period with eventual disposal is appropriate: if these records were made permanent, the records would be subject to withholding from researchers under the Freedom of Information Act b(6) exemption, personal privacy, for the lifetime of the individuals involved. Because it is often not determinable when an individual is deceased, this effectively restricts access to such records for 100 years from the date of birth. By the point such restrictions are no longer applicable, NARA

considers that any research interest in the specific cases would have diminished considerably. In balancing these privacy considerations against the expected research value, NARA concurs that a temporary disposition is appropriate. The Department of Homeland Security's (DHS) Office for Civil Rights and Civil Liberties produces an [annual report](#) that documents complaints and investigations. This report is captured by a DHS Department-wide Executive Schedule, item [DAA-0563-2013-0005-0001](#), as a permanent record.

Death Review Files (Item 0002) are reports on findings from reviews of the circumstances surrounding detainees' deaths. NARA considers that these files do not meet our appraisal criteria for permanently valuable records. The legal rights of individuals documented by these records do not continue indefinitely, and the records do not document significant actions of Federal officials that are not captured elsewhere. ICE's Office of Detention Oversight prepares reports of its investigations for possible judicial or management action. If a death is related to employee misconduct, the investigative case file would be permanent under proposed schedule item [DAA-0567-2015-0012-0001, Internal Affairs Significant Misconduct Investigative Case Files \(pending\)](#), and long-term temporary under schedule item [DAA-0567-2015-0012-0002 Internal Affairs Routine Misconduct Investigative Case Files \(pending\)](#). The Office for Civil Rights and Civil Liberties annual report mentioned above also documents deaths in detention.

NARA regularly appraises death review and investigation files as temporary. For similar appraisals of individuals in federal custody see, for example, approved schedules [N1-129-01-004](#) and [N1-527-99-1](#).

NARA recognizes that records not meeting our appraisal criteria for permanent preservation may nevertheless be of significant interest to the public. A lengthy retention period ensures that interested parties may request the records from the originating agency through the Freedom of Information Act (FOIA) process.

NARA focuses on records that form essential evidence which include records that document the rights of citizens, enable them to establish their identities, protect their rights, and claim their entitlements. Records that document actions of Federal officials enable them to explain past decisions, form future policy, and be accountable for decisions. Records that document the national experience provide the means for evaluating the effects of Federal actions on the nation and for understanding its history, science, and culture, including the man-made and natural environment. Not all records that constitute essential evidence are permanently valuable. Rather, NARA authorizes agencies to destroy most of these records when they are no longer needed to meet agency business needs. Records that are appropriate for permanent retention are discussed in NARA's appraisal policy found on our website at <https://www.archives.gov/records-mgmt/initiatives/appraisal.html>