NEW YORK STATE SUPREME AND COUNTY COURTS
CIVIL RECORDS PURGE PROJECT
FREQUENTLY ASKED QUESTIONS

Rev. July 2004

Where should the destruction of records be recorded?

Index Books, Docket Books or computer data bases (any instrument used to record court activity) should be updated to indicate destruction of case files. This will expedite the process of locating specific cases without having to go back to the County Clerk's Civil Case File Disposal Form.

Should all case files concerning property be retained permanently?

All case files which mention real property <u>in any of the case papers</u> should be kept permanently, in their entirety, even if they are Contracts or Torts.

Can Satisfactions and Satisfied Executions be disposed of when they are contained in purgable case files?

All Satisfactions and Satisfied Executions should be pulled from the purgable files and retained permanently. (In addition to the entries made into the Judgment Docket - see CPLR §5021)

What if the County Clerk's Office does not record judgments in a Judgment Docket or File and Entry Book or Judgment Book?

If the County Clerk's Office does not record judgments in a Judgment Docket or File and Entry Book or Judgment Book, the Judgment (decision, order or verdict) must be pulled from the file and retained permanently. Information entered should satisfy requirements of CPLR §9702.

What records are purgable?

No pre-1950 cases are eligible for destruction. Post - 1950 Contract or Tort cases initiated in years ending in "0" <u>are not eligible</u> for destruction. They constitute a permanent research sample.

What is the date of disposition?

Eligible Contracts, Torts, Tax Certs and some SCAR records are to be retained for twenty-five years <u>from date of disposition.</u> This is the date of the decision, order or verdict.

Should all post-1950 years be purged for eligible records?

Although Tax Certs and SCAR case files are eligible for destruction for years ending in "0", you may choose to skip over these years completely since most cases will be Torts and Contracts which are not eligible for the sample years.

Is there a set standard for color coding the case files\jackets?

If at all possible, the following colors should be used to color code the files in order to promote uniformity around the state: Green - Destroy at a later date, Pink/Red - Permanent, Orange - Criminal and Blue - Not enough information.

Should records eligible for immediate disposal be marked?

Before the purge project is initiated, decide whether you want to color code the records which are eligible for immediate disposal or if it is sufficient to just place them in an appropriately marked box.

If the County Clerk's Office is planning on designing a database to identify purgable records, would it still be necessary to color code the case files?

If the County Clerk's Office is planning on designing a database to identify purgable files in the future, it is not necessary to also color code the new case files.

What is a structured settlement?

A structured settlement is where the defendant is instructed to make periodic payments over a period of time.

If the County Clerk's Office has decided to microfilm permanent records, where should the Civil Records Disposal Form(s) be placed on the microfilm roll?

If the County Clerk's Office has decided to microfilm permanent records, it is recommended that the Civil Records Disposal Form be filmed at the beginning of the roll for the appropriate number sequence.

After records have been purged from their original storage box/drawer/shelf when should the box/drawer/shelf be consolidated?

If you have to re-box, re-file and /or re-label location as a result of the purge, records can be returned to either their original location until your purge is completed or you can consolidate records as you go along. Either way you must revise all locations indicators to reflect the new system.

What should you do when the case type cannot be determined?

For records where the case type cannot be determined, you may choose to compare these with other source records where the case type may be indicated. The decision to do this should be predicated on the availability of the source records and time available to accomplish this extra step.

Must the index numbers on the County Clerk's Records Disposal Forms be in number sequence?

Keeping index numbers in sequential order facilitates the identification of records that have been purged. Use a separate County Clerks Records Disposal Form(s) for each box. Also, begin a new form for each year if boxes contain more than one year. This practice will allow several purgers to interfile their County Clerks Records Disposal Forms to maintain the numbering sequence.

Is quality control necessary?

To ensure accuracy, files designated for destruction should be reviewed by court/county clerk personnel who have experience with court records.

What do you do when the only document in the case file is the Index Number Application?

If the only document in the file is the Index Number Application, the case file/jacket may be disposed of after six years, even when the application may indicate the case type.

What if the case type cannot be determined?

You may dispose of any case file, when you cannot identify the case type, after 25 years, provided it contains only a Stipulation of Discontinuance and/or Change of Attorney and/or Change of Venue and/or Summons Without Complaint.

Should case files marked "Eligible at a Later Date" be automatically disposed of when they reach their retention period?

Review all case files which are marked "Eligible at a Later Date" prior to disposal. If they are eligible because they do not contain final dispositions the disposal date is based on the date of last activity. This date will change every time a document is filed.

My office has criminal and civil records filed together. What is the retention for criminal records of the Supreme and County Courts?

If you interfile civil and criminal cases, you may want to purge the criminal files at the same time. Criminal cases have a retention of fifty years after disposition unless the case was adjudicated in favor of the defendant (acquitted or dismissed) which has a twenty-five year retention. If you separate the criminal cases from the civil cases while purging, it is recommended that you also separate the criminal files from the civil files for the years ending in "0". This would enable you to maintain a continuous record series.