

Testimony

Senate Intergovernmental Operations Committee

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Pennsylvania Historical & Museum Commission

Dave Shoff

Bureau Director, Pennsylvania State Archives

Senator Coleman, Senator Tartaglione, and Members of the Senate Intergovernmental Operations Committee, my name is Dave Shoff, and I am the Bureau Director for the Pennsylvania State Archives. Thank you for the opportunity to submit testimony regarding the Pennsylvania Historical and Museum Commission (PHMC) records management responsibilities.

Executive Branch of Government: As per Executive Order 1992-1, the Secretary of Administration administers the records management program for the Commonwealth and determines policies. The PHMC, in conjunction with the Secretary of Administration, is responsible for implementing the records management program for Commonwealth agencies and offices under the Governor's jurisdiction.

County Government: The County Records Act of 1963 created a County Records Committee to make or revise records retention schedules setting forth the conditions under which county records may be disposed. The PHMC assists the Committee by examining county records, preparing record retention, and disposition schedules for approval by the Committee, and by enforcing such schedules and procedures after Committee approval. These retention schedules and procedures are listed in the County Records Manual.

Local Government: The Municipal Records Act of 1962 sets up a Local Government Records Committee. The PHMC, along with the assistance of other municipal groups, creates proposed retention and disposition schedules and records management procedures for submission to the Committee for its approval and prepares updates of these schedules as needed. These retention schedules and procedures are listed in the Municipal Records Manual. Cities of the third class, boroughs, incorporated towns, townships of the first and second classes, including any municipal corporations which have adopted a home rule charter, and any municipal authority created by any of these municipalities may adopt and follow the Municipal Records Manual, or they may create their retention schedules and procedures as long as they are compliant with Municipal Records Act requirements. Cities of the first and second class are exempt from the Municipal Record Act and

thus create their own retention schedules. PHMC does not have any authority over the retention or disposition of records created by school districts.

The County Records Act defines a record as “any papers, docket, books, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received in any office of county government in pursuance of law or in connection with transactions of public business in the exercise of its legitimate functions and the discharge of its responsibilities.” The Municipal Records Act and Management Directive 210.5 (authorized by Executive Order 1992-1 and which guides commonwealth records management policies and practices) have nearly identical definitions of records. Therefore, the informational content of the record created, not the format of the record, dictates what the retention period will become.

It is the responsibility of each government office (not PHMC) to classify its own records based on their informational content to determine the appropriate retention time and disposal procedure. Record series in all state, county, and municipal record schedules are based on informational content and not on the nature of the record’s creation or storage (i.e. email, records on cassette tape, records created in a messaging application, or social media). The informational content of a social media post, communication in a messaging application, etc. (including any attachments or other documents embedded inside the post or message) should be reviewed to determine the appropriate retention and disposal.

Pursuant to Management Directive 205.42 Social Media:

https://www.pa.gov/content/dam/copapwp-pagov/en/oa/documents/policies/md/200/205_42.pdf

Executive Branch agencies are advised to not use social media to create or store official records that have documentary or evidentiary value, and that information provided via social media should be duplicative of the official record or considered a transitory record as per the General Records Retention and Disposition Schedule for Most Agencies under G001.021 Transitory Records. Neither the County nor Municipal Records Committees provide any guidance for the use of social media or messaging apps in the creation of records possessing documentary or evidentiary value.

When records are created/maintained in social media or messaging applications, they are typically considered “transitory.” Record schedules indicate transitory records should be retained as long as the records are “of administrative value” which is determined by the office that created or possesses the records. See the General Records Retention and Disposition Schedule, series G001.021 (Transitory Records), County Records Manual series AL-1 (Administrative and Subject Files), and Municipal Records Manual series AL-1 (Administrative and Subject Files).

Public comments and messages from members of the public on government social media accounts in some instances may be considered records if the comment relates to official government business and activities and the agency or office determines it to be subject to a retention period. The content of these comments and messages determines the appropriate retention.

It should be noted that during the retention period of a record, it must be accessible to appropriate staff for that entire length of time.

- In [Management Directive 210.5, Records Management](#), it states in Section 5. C (7) “*All commonwealth records must be **maintained in such a way that they are readily retrievable**, in facilities that provide a suitable environment to protect them from damage, deterioration, and loss, and are in compliance with the applicable records retention and disposition schedules.*”
- The [County Records Manual](#) also reminds county agencies in *Policy and Guidelines for the Management of Electronic Records Including Electronic Mail (E-Mail) Systems, Section 5.14* “*The implementation and use of an electronic records keeping system **should not limit or hinder public access to public records.***” The same wording is used in Section 5.8 of the [Municipal Records Manual](#).

Any software that government entities use for social media or messaging apps must follow policies set forth by the Office of Administration, the County Records Committee, or the Local Government Records Committee.

Senator Coleman, Senator Tartaglione, and Members of the Senate Intergovernmental Operations Committee, I again thank you for the opportunity to submit testimony regarding PHMC’s records management responsibilities.