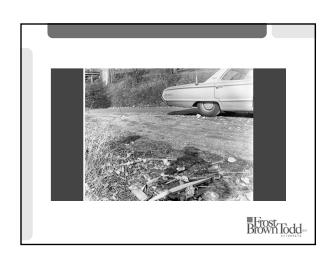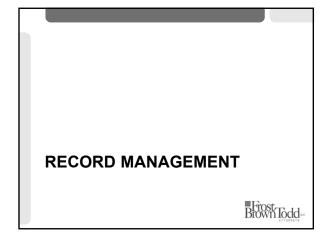Proper Documentation: Learning to Create
Correctly, Store Effectively, and Retrieve Efficiently
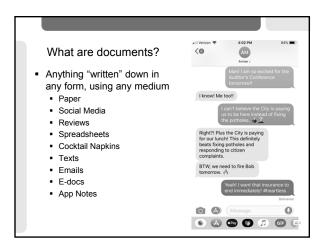
Catherine Burgett
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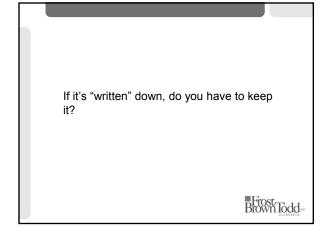**Youths Ordered To Clean Up Rubbish Mess**

LEE — Because they couldn't find a dump open in Great Barrington, two youths threw a load of refuse down a Stockbridge hillside on Thanksgiving Day.

Saturday, Richard J. Robbins, 19, of Poughkeepsie, N.Y., and Arlo Guthrie, 18, of Howard Beach, N.Y., each paid a fine of $25 in Lee District Court after pleading guilty of illegally disposing of rubbish. Special Justice James E. Hannon ordered the youths to remove all the rubbish. They did so Saturday afternoon, following a heavy rain.

Police Chief William J. Obanhein of Stockbridge said later the youths found dragging the junk up the hillside much harder than throwing it down. He said he hoped their case would be an example to others who ... about disposal of ...

Why do we "write" stuff down?

What do we use to "write" stuff down?

RECORD MANAGEMENT

Frost Brown Todd

What are documents?

- Anything "written" down in any form, using any medium
  - Paper
  - Social Media
  - Reviews
  - Spreadsheets
  - Cocktail Napkins
  - Texts
  - Emails
  - E-docs
  - App Notes

If it's "written" down, do you have to keep it?

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Purpose of Records Management

- Ensure records are available
  - Public records requests
  - Use by entity
  - Discovery
  - Historical perspective
- Protect records from improper destruction
- Ensure we aren't keeping more than we should

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Benefits of Record Management

- Space Savings
- Time savings
- Money savings
- Increase public trust
- Create and document institutional memory
- Tell our story

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Records management tells us what records we should keep.

What tells us what records we MUST keep?

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What is a public record?

- A **PUBLIC RECORD** is a record *kept by* a public office
  - "Kept by" means that the record is actually in existence and in the possession of the public office or person responsible for public records
  - Examples of records not "kept by" a public office:
    - (1) a record not yet in existence
    - (2) a record that has been disposed of lawfully
- R.C. § 149.43(A)

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The Definition of a Record – The Three Prong Test

- A **RECORD** is:
  - (1) information stored on fixed media (paper, tapes, electronic text, photos, films, videos, etc); *and*
  - (2) is created, received or sent under the jurisdiction of the public office (the public office used the record in some way); *and*
  - (3) documents the organizations, functions, policies, decisions, procedures, operations, or other activities of the public office
  - R.C. § 149.011(G)

Examples of records: ordinances and resolutions, purchase orders, plans reviewed by the Building Department, drafts of letters, telephone messages, e-mail communications regarding City business, memoranda, audio recordings, police reports, violation notices, contracts, and correspondence with residents
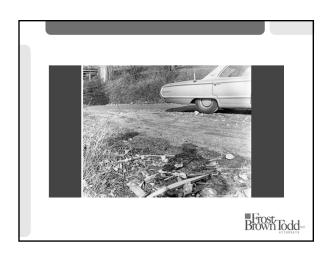
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Records

- **Databases**: If an existing program can perform a search and produce a compilation or summary as described by the requester, that output is deemed to "exist" as a record for the purposes of the Public Records Act
- **Electronic Records**: ensure authenticity, security, and reliability – determine if records by content, not media type
- **Non-public records:** All records – public or not – are subject to records management and retention laws
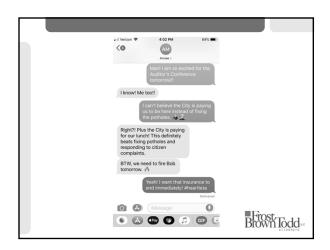
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Transitory Records

- **Transitory Records** are those that are temporary in nature and created for the purpose of transferring their content to an official file, database, report, etc.
- **Personal Notes** and **drafts** are transitory records if they meet the three-part definition of a "record"
    - Notes are <u>not</u> records if they are:
        - (1) kept as personal papers;
        - (2) kept for the employee/official's own convenience; and
        - (3) not accessible to other members
    - The content of the draft determines how long it should be kept

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Record Retention Obligations

- **Make** only such records as are necessary to document the organization, functions, and essential transactions of the agency, and to protect the legal and financial rights of the entity and persons directly affected
- **Do not destroy**, mutilate, or otherwise dispose of records **except** as provided by law or under the rules of a Records Commission
- **Organize and maintain** public records in a manner that they can be made available for inspection or copying
- **Keep** an available copy of current records retention schedule at a location readily available to the public

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MAKING THE DOCUMENTS

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Who Wants Documentation?

- Citizens
- Media
- Employees
- Unions
- Other Government Bureaucracies
- Attorneys
- Juries
- Medical Professionals
- **THE STATE OF OHIO**

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What do they ALL have in common?

- (1) They thrive on paper;
- (2) they believe that if something was important, you wrote it down
  - If you didn't write it down, it must not have been important

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Know what happens to your paper – be purposeful

- Think about what happens to each document you create before you create it
- Know where it is going
- Know who is going to see it
- Know how long it will be kept
- Know where it will be kept and how
- Know how it will be destroyed and when
- Know whether it is a public record

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Proper Documentation Has a Purpose

- You must first determine the purpose of the document to determine what and how to document
  - If it's a government function, do you simply need to record the events that occurred?
  - Is it to assign follow-up tasks?
  - Is it to document discipline in an effort to change behavior?
  - Is it to tell somebody to do something?
  - Is it to Cover Your Assets?

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Creating a Paper Trail

- In "government" functions, you often need documents to, essentially, create a paper trail
  - Who you talked to
  - When you talked to them
  - What was said
  - What was agreed to
  - What are the follow-up steps required
  - Were those follow-up steps completed

Creating a Paper Trail

- In other areas which deal with employees, the opposite is true, and documentation should have a purpose *other* than to create a paper trail
  - Convey to the employee, this is important!
  - Tell them what to do! (Or not to do)
  - Develop a plan
  - Document an infraction
  - Give credit where it is due

Papering the File

- The correct purpose is NEVER to paper the file

Be Objective

JUST THE FACTS

- Regardless of the purpose:
  - Be objective – don't editorialize or speculate
  - Don't use buzz words "discrimination, harassment, disability claim, citizen safety concern"
    - Don't concede any points
    - "Wrong" does not equal "unlawful"
  - Don't offer opinions as to a citizen's or employee's past or future conduct
  - Don't be dramatic – if someone's life wasn't at risk, don't say it was

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Be Objective

JUST THE FACTS

- Be specific – even if it hurts or causes embarrassment
  - Don't say poor attitude – say how the attitude manifested itself
  - Don't just say "he allegedly harassed her" – say how he allegedly harassed her
  - Don't just say "he touched her" – say how, where, and when
  - Sometimes you can't be nice – honesty is more important
  - BUT - focus on the behavior, not the person

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Tips for Proper Documentation

- Be consistent – do the same thing every time
- Consider making "how to" cards for common situations
- Make it legible
- Date it
- Sign it
- If possible and applicable, let the other party review and sign

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Tips for Proper Documentation

- Don't speculate on possible legal claims
- Make sure your "facts" are facts
- Don't use shorthand or code
- Be mindful of your personal notes
- Be complete - you may know what you know but others will not

JUST THE FACTS

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Tips for Proper Documentation

- Keep your documents filed and organized
- Follow the document retention policy
- Be careful about what you throw away
- If you don't want to see it on the nightly news –don't write it down

JUST THE FACTS

EXTRA! EXTRA!
SCANDAL UNFOLDS!!

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Security and Confidentiality

- Keep it safe and "confidential"
    - Don't let your hard work disappear
    - Don't feed the rumor mill
    - Don't ever be in the position to attempt to explain how and why it happened

    - If it can't go in the regular personnel file, it's REALLY confidential
    - Recognize that while it might be a public record, it still maybe shouldn't be discussed openly

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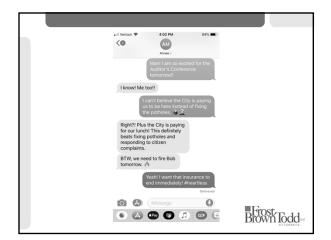**And While We're on the Subject…**

- Mind your e-mails!
  - E-mails are not informal notes – they are documents that are stored just like contracts
  - E-mails have no tone
  - E-mail is an extremely easy form of communication, which makes it a very dangerous means of communication
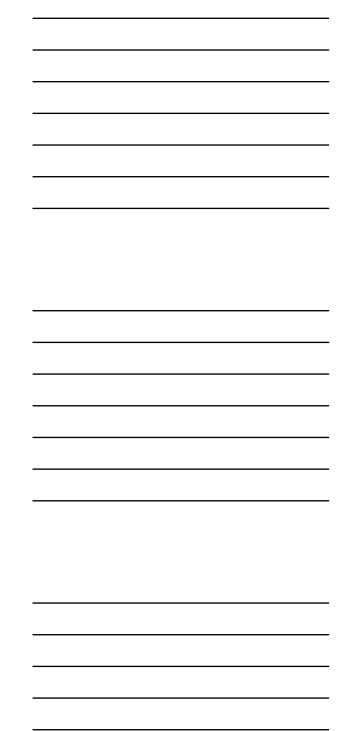
Frost Brown Todd

And While We're on the Subject…

- Mind your e-mails!
  - Remember – every one of your e-mails (even the deleted ones) may be read by a third party
  - Think before you type and re-read your entire message (including addresses) before you send.
  - Do not e-mail when angry - Ever
  - Do not discuss sensitive personnel matters in an e-mail, even with a "confidential" recipient like HR or another manager
  - When in doubt, don't put it in an e-mail – pick up the phone or walk down the hall

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CRAFTING YOUR RECORD MANAGEMENT SYSTEM

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Where to Begin with Records Retention

- Perform a records inventory
  - What records are there?
  - Where are they stored?
  - How are they stored?
  - How are they used?
  - Create Record Series
    - "a group of similar records that are arranged according to a filing system that are related as a result of being created, received, or used in the same activity"
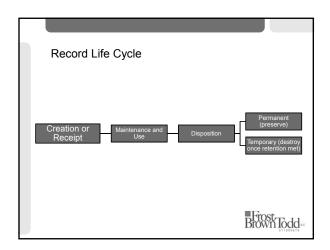   - Committee minutes, purchase orders, personnel files

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Develop a Paper Plan

- Tell each member of your team what documents to create, how to create them, how to store them, and how long to keep them

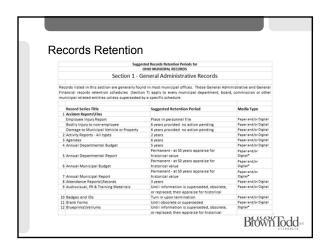- Your plan should also consider who is responsible for making sure the right paper comes in the door

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Record Life Cycle

```
Creation or     →    Maintenance and    →    Disposition    →    Permanent
Receipt              Use                                          (preserve)
                                                                  
                                                                  Temporary (destroy
                                                                  once retention met)
```

Schedule Contents

- A retention schedule consists of the following:
  1. Record title and description;
  2. Length of time the record must be retained; and
  3. The media type of the records series (paper, microfiche, digital, film or videotape)
- Retention schedules are designed for people who have no knowledge of the records
- An efficient retention policy is one that refrains from using legal jargon and acronyms

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Records Retention

Suggested Records Retention Periods for
OHIO MUNICIPAL RECORDS

Section 1 - General Administrative Records

Records listed in this section are generally found in most municipal offices. These General Administrative and General Financial records retention schedules (Section 7) apply to every municipal department, board, commission or other municipal related entities unless superseded by a specific schedule.

Record Series Title	Suggested Retention Period	Media Type
1 Accident Reports\Files		
Employee Injury Report	Place in personnel file	Paper and/or Digital
Bodily Injury to non-employee	6 years provided no action pending	Paper and/or Digital
Damage to Municipal Vehicle or Property	6 years provided no action pending	Paper and/or Digital
2 Activity Reports - All types	2 years	Paper and/or Digital
3 Agendas	6 years	Paper and/or Digital
4 Annual Departmental Budget	5 years	Paper and/or Digital
5 Annual Departmental Report	Permanent - at 50 years appraise for historical value	Paper and/or Digital*
6 Annual Municipal Budget	Permanent - at 50 years appraise for historical value	Paper and/or Digital*
7 Annual Municipal Report	Permanent - at 50 years appraise for historical value	Paper and/or Digital*
8 Attendance Reports\Records	3 years	Paper and/or Digital
9 Audiovisual, PR & Training Materials	Until information is superseded, obsolete, or replaced; then appraise for historical	Paper and/or Digital
10 Badges and IDs	Turn in upon termination	Paper and/or Digital
11 Blank Forms	Until obsolete or superseded	Paper and/or Digital
12 Blueprints\Vellums	Until information is superseded, obsolete, or replaced; then appraise for historical	Digital*

Retention Periods

- A record retention period can be:
  - A set period of time with subsequent instructions
    - Routine e-mail correspondence must be kept for 6 months, then destroyed
    - Executive e-mail correspondence must be kept for 2 years, then transferred to State Archives.
  - An event-driven period
    - Mailing lists shall be kept until superseded or obsolete
  - A set period of time and an event driven period
    - Contracts shall be retained for 15 years after expirations

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E-mail Messages

- E-mails are classified based on *content*:
  - **(1) Non-Record E-mails** such as personal correspondence or material that is publically available to anyone
    - No requirement to retain
  - **(2) Transitory E-mails** such as telephone messages, drafts, and other limited documents that serve to convey information of temporary importance in lieu of oral communication
    - Retain until no administrative value
  - **(3) Intermediate E-mails** are more significant than transitory, such as internal memos, advisory reports, and meeting minutes
    - Depends on subject matter of the correspondence
  - **(4) Permanent E-mails** have significant administrative, legal, and/or fiscal value, such as executive correspondence or departmental policies and procedures
    - Depends on the subject matter

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Social Media

- Social media records should be given the same consideration as other records
- If the **content** of the social media record meets the definition of a record, then it must be retained for the appropriate retention period
- Public employees engaging in social media activities should be careful of the content of their communications and corresponding records retention requirements

twitter

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Best Practices for Managing Email – Part of your Plan

- Record and copy email – generally speaking, the individual who sends an email message should maintain the record copy of the message

- File email – create other folders to facilitate ease of retention

- Subject lines – fill in the subject line to both help your recipient identify and file messages, and to help you file your messages that must be retained for some period. Should be as descriptive as possible

Poor or confusing subject lines	Better, descriptive subject lines
"helpful info"	"contact info"
"report"	"quarterly financial report"
"minutes"	"Jan 99 board minutes"
"important"	"revised admin. procedures"
"today?"	"lunch plans today?"
"news"	"new agency head appointed"

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Some thoughts about retention schedules….

- This is an art – not a pure science
- Reasonable minds can disagree
- It involves a risk/reward analysis
- You must be consistent
- The most relevant statute of limitations in Ohio is 6 years

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Recruiting		
	Job Descriptions	3 years after last posting, or 3 years after last active employee holds this position, whichever is longer
	Applicant Resumes	3 years from the date the employment action was taken
	Applicant Employment Application	3 years from the date the employment action was taken

Payroll	
Payroll Registers	7 years
Time Sheets	7 years
Fed/State Tax Filings	5 years
Form W-2 filings	5 years
Child Support Notice	5 years
Garnishment Notice	5 years
Bankruptcy Notice	5 years
Tax Levies	5 years
Annual Bonus	5 years

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Personnel Files

	Active employees	Keep while active
	Terminated employees	7 years

Government Compliance

I-9 Forms	4 years from hire or 2 years after termination, whichever is longer.
EEO Report	keep most recent
Vet -100	2 years
Affirmative Action Plan	Current year plus one year
OSHA Log 300	6 years
OSHA Safety Training	6 years
Audits	Current year plus one year

Documents

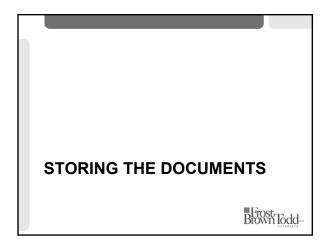|	
FMLA	4 years from the time the leave ends
STD	7 years after plan expires
Worker's Comp	2 years past settlement of claim
Retirement Plan Audit & 5500	7 years
Retirement Plan Annual Adm.	7 years
Health & Welfare Benefit Doc	7 years after plan expires
Retirement Plan Documents	7 years after plan expires
Employee Policy Manuals	7 years after last effective year
Severance Agreements	8 years
Legal Settlements	8 years
Union Negotiations/Notes	keep with contract
Union Contracts	4 years after expiration

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Factors Determining Value (and ultimately retention)

- **Administrative Purposes** – Period needed by the office to carry out its duties
- **Fiscal Tracking** –
  - Needs pertaining to the receipt, transfer, payment, adjustment, or encumbrances of funds
  - Documents subject to audit
- **Legal Value** – Documents relating to rights or obligations of citizens or of the agency that created it
- **Historical Value** –
  - Documents policies, decisions, procedures, etc.
  - Contains significant info about people, places, or events
  - Ohio Historical Society/Archives

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STORING THE DOCUMENTS

A Word About Formats…

Format Choice

- Technology will change
- Media will degrade

- You still must make sure that the record is available, readable, and authentic until it has met retention

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Electronic Document Management Systems

- Filing Conventions
  - Create unique names
  - Names should be simple and easy to understand
  - Avoid special characters
  - Use dates of creation – beginning with year
  - Keep file name short
  - Include version number
  - Set up naming protocols

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Electronic Document Management Systems

- Develop a Policy
  - File names must last
  - Access and ease of use
  - Make administration easy
  - How many names will you need?
  - Determine what metadata to collect and preserve
  - Universal retrieval
  - Which is the official copy
  - What is relationship to paper copies

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Retrieval

- Plan for how documents will be collected and/or searched
- Set a protocol that matches your storage medium
- Train employees on how to search files (of whatever kind)
- Utilize vendors when necessary

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DISPOSITION

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Plan the Disposition

- Follow the retention schedule
- Decide how documents will be culled for destruction
- Set timelines and timeframes
- Make it manageable

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Document the Disposition

- You need to know whether the record still exists
- You need proof of compliance with record retention schedule
- Demonstrates consistent business practice for litigation purposes

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THANK YOU!
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