

OVERSIGHT COMMITTEE ON PUBLIC RECORDS
Regular Meeting June 14, 2006

06-06-14-01

CALL TO ORDER AND ROLL

A regular meeting of the Oversight Committee on Public Records was held Wednesday, June 14, 2006. The meeting was called to order by Vice Chairperson Karen Davis, Public Access Counselor, at 1:30 p.m. in E418, Indiana Government Center South. Ms. Davis thanked members for agreeing to meet on this date, rather than the third Wednesday of the month. Members present constituting a quorum: Pam Bennett, Director, Indiana Historical Bureau; Roberta Brooker, Interim Director, Indiana State Library; Jim Corridan, Director & State Archivist, Indiana Commission on Public Records; Chris Cotterill, Designee for Karl Browning, Director, Indiana Office of Technology; John Jacob, Designee for Bruce Hartman, State Examiner, State Board of Accounts; Kevin Ober, Designee for Carrie Henderson, Commissioner, Department of Administration; Nancy Turner, lay member. Absent: Liz Keele, Designee for Todd Rokita, Secretary of State; Anita Samuel, Governor's Office. Commission staff in attendance: Larry Hummel and Amy Robinson, Records Management; Beverly Stiers, County and Local Records Management; and Allyson Emley, Intern. Guests in attendance: Steve Key, Hoosier State Press Association.

06-06-14-02

NEXT MEETING

Karen Davis announced the next meeting would be held July 19, 2006 at 1:30 p.m. in Room E418, IGCS.

06-06-14-03

PREVIOUS MEETING

Pam Bennett moved approval of the minutes of the May 17, 2006 meeting as presented. John Jacob seconded. Motion carried.

06-06-14-04

OLD BUSINESS

1. Publication of Non-Rule Policy Documents – Jim Corridan stated that Committee is still plugging away and they are making progress, but there is nothing new to report at this time.
2. E-mail Retention Policy – Jim Corridan stated we have been discussing the “E-Mail & Public Records” training for a while and ICPR wants to make something available to help address training needs of what is to be retained, how it is to be retained. ICPR is looking to get this done as soon as possible and IOT is looking at some minor changes.

Chris Cotterill stated the Office of Technology is consolidating all email accounts to one primary system. Mr. Cotterill stated they have quite a few more Agencies to work with but they are about two-thirds of the way done. Mr. Cotterill stated as part of that they have taken on mailboxes of enormous size and they have recently done an analysis that says about 80% of State Government users are using under 100 megabytes and there is 20% that is far exceeding that. Mr. Cotterill stated to make the cost directly related to the payer and the user pays for what they get, they have set a 100 megabyte standard in their seat costs, which is the cost you pay for desktop support. Mr. Cotterill stated the 100 megabytes is not a limit – it is the standard – and you can go above it and you will pay for going above it. Mr. Cotterill stated in talking with Mr. Corridan they made sure their notification to the IT Director said we are going to do this and by the way make sure you know what your retention requirements are, you cannot just say delete everything over 100 megabytes because that could have an effect on your compliance with the retention.

Karen Davis stated she had a question for Mr. Cotterill. Ms. Davis asked if any fees that would be paid then going forward to support over 100 megabytes – are those fees earmarked to go for additional capacity. Mr. Cotterill stated it is not a true reduction in costs, it is a reallocation.

Nancy. Turner asked if responding to invitations meaning simply a yes or no, I will be there, because some times there is some meat in a response if you are talking about when people have been to a meeting and then they give information as to what is going on, and she was just wondering if that is something that should be taken out of that particular place. Pam Bennett stated she sees what Ms. Turner means, but she thinks what that means, and it could be clarified to invitations and responses to invitations. Ms. Turner stated that would be o.k. and Mr. Corridan stated he would be happy to do that.

Karen Davis stated what Ms. Turner brought up is really a larger issue that maybe we would clarify an email just by kind of its purpose. Ms. Davis stated you are always going to have to look to what is in the email ultimately, but you could append a lot of stuff into something that otherwise started out as merely a transitory message. Ms. Davis stated maybe we could note that these are transitory because that is all they do and nothing more and do not contain any kind of substantive.

Roberta Brooker asked about the incoming list serve messages, for instance, if someone is asking if you want \$10,000,000 and you meet these criteria and you responded, would you want to keep that. Jim Corridan stated in all of our policies there is nothing that says you have to delete anything, the issue is that you can delete items.

Karen Davis stated that kind of goes through the same thing, list serve – it is kind of difficult to define what that is, she is on a health information technology list serve, so she gets a lot of messages, some of which she deletes before she even reads them because she is busy, but there are a million other people around the country, so that by definition is not going to be a record that she has to retain, nobody sent it to just her, she is just on a long list of people so that sort of thing could be deleted. Ms. Davis thinks to a large extent from Office of Technology’s standpoint we do want to have good deletion policies as well because of the capacity issues, so it may be important to know what you can delete and be comfortable with that and that sort of thing and the other side of the coin is retaining the important things. Ms. Davis stated there are so many that can be deleted, there is no question about that. Ms. Davis stated it is not an evil thing to delete email.

Chris Cotterill stated he is concerned about the comments here, like I am going to come to the meeting with Jim and I am concerned about this email and public records policy. Mr. Cotterill stated to him that is conveying information of temporary importance, it is transitory and can be deleted.

Karen Davis stated that she thinks that arguably where we say transitory documents serve to convey information of temporary importance begins a sort of yet to be determined language that we are going to make sure is part of the training and put in here and make it clear that transitory documents are of temporary importance or convey information of temporary importance only to the extent that they do that and if there is something more in an otherwise what started out to be a transitory message could change the nature of it, from an originally transitory message to one that has more importance for retention.

Ms. Davis stated it is kind of what she said when she turned in her comments to Jim Corridan, “gee, a lot of emails may not set policy because that won’t happen for some period of time, but they start to formulate it or they weigh in or what have you and arguably she thinks that is where

the rubber meets the road, we may not all agree on whether that fits a particular retention period or not.” Ms. Davis stated she thinks part of the problem with this body that we are grappling with is that we do not determine whether an email fits into a particular records retention policy or fits into IC 5-15, because the Agency is familiar with its statutory authority, what it’s records are and how they get generated, and that she thinks all has to flow into whether a particular email needs a records retention or not. Ms. Davis stated we are not going to be able to answer every email question or set a perfect illustration of what needs to be retained. Ms. Davis stated she thinks that necessarily has to happen at the Agency level by looking at what they are responsible for, and she thinks part of that is why they are grappling here with the issues. Ms. Davis stated she does think there is a gray area between the setting policy and establishing the guidelines and all the things that lead up to that. Ms. Davis stated somewhere in there, there may be some records that need to be retained, or not, it is up to the Agency ultimately. Ms. Davis stated they have to figure that out based on what they do. Ms. Davis asked if that makes sense and there is room for disagreement.

Chris Cotterill stated it will always be the Agency will be taken to task by the Public Access Counselor if they have not kept something. Ms. Davis stated that is true if that is appropriate, and she is not trying to absolve everyone ahead of time and she thinks we give guidance and that really is what this is and this is just like any other record except for ones that we all know, a contract needs to be retained, nobody would have doubt about that, but there might be other things like memos or notes or what have you that are going to be falling in a gray area, so she thinks what we are trying to do here is illustrate in real terms the sorts of things in email that happen all the time and can be discarded. Ms. Davis stated there is probably more discardable email than any other type of record, a lot of things that we commit to paper have that sort of importance, email perhaps not as much.

Jim Corridan stated what will be done from the Commission’s standpoint is work to try and see if language can be used to try and meet the issues raised today. The overriding point is that employees in State Government are provided an understanding of what their obligations are and maybe we are 90% resolved and there is 10% that is gray, but at least we have 90%. Mr. Corridan stated if we can move in the right direction at least that is good.

Pam Bennett stated she believes things will come up in training that conceivably need to be addressed. Ms. Bennett stated every training we have had on every thing we have done results in basically things coming up and these need to be clarified. Ms. Bennett stated that will continue to happen even with this, because, frankly, we do not know all the things that are out there that people receive on a daily basis. Ms. Bennett stated it is probably frightening to think about all the things that come in on a daily basis, but that is one of the things we will be getting back, people will respond to this and other issues may come up that need to be dealt with.

Jim Corridan stated he is not necessarily looking for a motion, but whatever we need to do, and he does want input and understanding that we are on the right track and that OCPR is o.k. with this. Nancy Turner stated at least it is on paper. Pam Bennett stated the second version is much clearer than the first one, that defining transitory section was backwards and was very confusing and the second version clarifies that.

There being no other comments or questions about this guidance, Karen Davis thanked everyone for their spirited comments.

06-06-14-05

DIRECTOR'S REPORT

Jim Corridan stated in addition to the written report distributed to the Members with their packets, there are a couple of additional items because the meeting this month was a week early and these items were distributed today. Mr. Corridan also stated he did not have all the website information related to the statistics that is generally provided, but he was sure that Forms Management led the way followed by Records Management and the State Archives. Mr. Corridan stated the only other item of significance is the Office of Information Technology and Commission on Public Records are working together to develop a RFI, looking at a whole wide range of electronic content and the systems to help the State from forms to scanning to all sorts of things to make that easier and more acceptable for the public having single repositories and be able to search, for example, Karen Davis and finding all records related to her in all Agencies.

06-06-14-06

AGENCY REQUESTS-RECORDS RETENTION AND DISPOSITION SCHEDULES(S)

The Oversight Committee on Public Records took the following action regarding retention and disposition schedules.

1. INDIANA COMMISSION ON PUBLIC RECORDS.....05/09/06
Miscellaneous Non-Judicial County Clerk’s General Retention Schedule (COCLK)
2. INDIANA COMMISSION ON PUBLIC RECORDS.....05/09/06
General Retention Schedule-All Agencies – GRADM 1

In regard to Schedule No. 1, Indiana Commission on Public Records, Miscellaneous Non-Judicial County Clerk’s General Retention Schedule (COCLK), Beverly Stiers stated the State Board of Accounts felt that Item No. 25, Clerk’s Fee Book should be in Administrative Rule 7, but State Court Administration stated it should be in this Retention Schedule, so it was included in the Schedule presented for approval at the May, 2006 meeting. After approval at the May meeting, we learned that State Court Administration wanted the two (2) additional items added. Ms. Stiers stated nothing is being changed other than adding the two items listed in the packet which state these two (2) are in Administrative Rule 7, which covers all judicial records for the Clerk’s office. Jim Corridan stated what the Court has asked is that we just define it a little bit better on the definition side, because there are three (3) different sets of retentions based on those records and we just want them all in one place. A motion was made by Jim Corridan to approve Schedule No. 1, Miscellaneous Non-Judicial County Clerk’s General Retention Schedule (COCLK), as amended, seconded by Chris Cotterill. Motion carried.

In regard to Schedule No. 2, Indiana Commission on Public Records, General Retention Schedule-All Agencies – GRADM 1, Jim Corridan stated there was one minor adjustment that needed to be made to this Schedule, Item No. 1, Minutes and Meeting Notices, this should really read “Minutes” and the meeting notices should not be on this. Karen Davis stated she noticed “THIS IS A CRITICAL RECORD” statement is repeated under the Title/Description and wondered if this was a real critical record. Mr. Corridan stated it is really, really critical, but actually one of those can be deleted. Mr. Corridan stated the results of approving this three (3) months ago and minutes and only minutes are retained permanently. Mr. Corridan stated the other documents, meeting notices and agendas, should be retained, but they do not need to be retained permanently and GRADM 1 is dealing specifically with permanent records. A motion was made by Kevin Ober to approve Schedule No. 2, General Retention Schedule-All Agencies-GRADM 1, as amended, seconded by Pam Bennett. Motion carried.

06-06-14-07

NEW BUSINESS

1. Electronic Records Conversion – OCPR Policy 06-01 - Mr. Corridan stated the Commission on Public Records has Agencies coming to them, saying their temporary records are being scanned and most important the Agency does not want to retain the paper and the electronic records, which they are required to do, unless they come before this Committee to change that. Mr. Corridan stated the Commission proposes as long as certain things happen, you will be able to scan your records, destroy the paper documents and State Board of Accounts will sign that it is agreed and acceptable. Mr. Corridan stated he believes everyone is on board here, the Court has reviewed this so they will be comfortable with it, and we have covered all bases adequately.

Mr. Corridan stated there are safeguards so that if someone puts in a new system, all the paper records will be retained for the first year the system is in place and the change that the State Board of Accounts has requested is they have to be retained if the system fails, until the system is successful.

Karen Davis asked if Mr. Corridan was seeking approval at this meeting, and he replied yes. Ms. Davis stated she had a question, on No. 3, it states the agency can guarantee the records will be accessible for the life of the retention period of that record, and what do you mean by accessible, to allow inspection and copying? Mr. Corridan replied yes, so that we meet the public access requirements and also we want to make sure that it is on a medium that will be available, so if you put this on a floppy disc and years pass and there is no way to access the floppy disc, that is not going to be acceptable. Mr. Corridan stated they are going to have to come up with some system that meets the retention requirements of 10 years or keep hardware and operating systems and applications that will allow access to them. Ms. Davis asked if that may include printing out on paper copy, sort of reverting back to what the original looked like. Ms. Davis then asked Mr. Corridan what he meant by guarantee recovery – how do we know because guarantee is a pretty strong word, in other words have safeguards in place that will allow this. Mr. Corridan stated there is no way we can quantify that, and he is not sure how the Agency can really say they guarantee this other than say they are going to make a good effort. Mr. Corridan stated we want them to feel an obligation to be able to make sure these records are accessible and put the burden on the Agency that they have committed to that, so that is why we have used that term. Ms. Davis stated before the conversion begins we will see all these things on that, basically, right – they will have to come to the Oversight Committee? Mr. Corridan stated they will have to come to the Commission on Public Records and we are trying to get it so it does not have to all go to the Oversight Committee, and this will allow records that are less than 10 years to be approved through the ICPR rather than the OCPR. Ms. Davis stated so this will never be used for permanent records and Mr. Corridan replied correct, only those records that have a total retention of 10 years or less, which is largely accounting, general correspondence, responding to innocuous requests and that kind of information.

A motion was made by Pam Bennett to approve the Indiana Oversight Committee on Public Records Policy No. 06-01, Acceptability of Electronic Media in Lieu of Paper for Non-Archival Records with a Retention of Ten Years or Less, seconded by Nancy Turner. Motion passed.

When asked by Ms. Davis if there was any other new business, Jim Corridan stated he did want to mention that he expects at the next meeting to have the County Coroners' Retention Schedule on the agenda. Mr. Corridan stated it was already completed and we have been waiting on the Coroner's Association and Training Board to finalize their review, as they have their annual meeting this month.

06-06-14-08

ADJOURNMENT

There being no further business, Kevin Ober moved that the meeting be adjourned. Chris Cotterill seconded. Motion carried. Meeting adjourned at 2:08 p.m.