Joel Anderson

Supervisor, Second District
San Diego County Board Of Supervisors

Agenda Item

Date: **October 6, 2026** **13**

To: Board of Supervisors

Strengthening Accountability and Transparency by Establishing a Five-Year Minimum Retention Requirement for County Public Records and Communications (Districts: All)

Overview
California Government Code Sections 12236 and 26202 et seq. mandates that county governments properly retain, appraise, and manage public records based on their type and purpose pursuant to guidelines set by the Secretary of State. Additionally, Government Code Section 7920.000 et seq., known as the California Public Records Act, requires government agencies to disclose certain public records upon request. Public records may include paper documents, emails, computer data and audio or visual recordings.

To comply with State law, the County of San Diego governs its document lifecycle using three primary mechanisms: 1) Board Policy A-129, "Compliance with the Countywide Records Management Program," (maintenance of master Global Retention Schedule that has been adopted); 2) Chief Administrative Officer Administrative Manual Policy 0040-09, "Document and Records Management Program," (standardized operational and destruction protocols); and 3) tailored departmental Records Retention Schedules. These requirements apply to what are considered "official records," which generally exclude drafts, notes, and inter-agency memoranda not kept in the ordinary course of business.

Although the County has been successful in using these policies and plans to comply with the State's retention and disclosure requirements for public records, there are no requirements to ensure all records and communications created using County equipment and resources are adequately retained. In addition, the policies and plans that guide the retention and management of official records allow for variations depending on individual departmental retention schedules and management practices and the lack of requirements to retain other documents and communications.

For example, electronic communications such as emails and text messages may not meet the criteria necessary to be considered official records and are not automatically subject to the same retention requirements as official records. As a result, email and text data cannot be recovered if it is lost, damaged, or otherwise undiscoverable. Additionally, if an email is not characterized as an official record or required to be retained under a litigation hold, it is automatically deleted

after two years. There is no retention requirement for text messages sent or received on County-issued devices. Once emails and texts are deleted, the County's technology team does not have the ability to retrieve these deleted communications.

Because of these automatic deletion policies, there is an unfortunate possibility that the County is spoliating vital information that the County could otherwise use to investigate potential misconduct or defend itself from external actions may be deleted and unrecoverable. As recent events have demonstrated, the early destruction of documents and communications can prevent the County from adequately conducting audits and properly addressing accusations, complaints, criminal activity, claims or lawsuits filed against the County.

To eliminate the current level of uncertainty resulting from inconsistent retention practices, prevent accidental spoliation and enhance organizational protection, I recommend that the County pursue the establishment of a five-year minimum retention requirement for County public records and communications, including those not classified as official records. I also recommend increasing the current automatic email deletion policy from the current two-year deletion requirement to a five-year deletion requirement. These actions will ensure vital data remains securely preserved, accessible to the public, the media and legal teams pursuant to the California Public Records Act, and fully supportive of governmental transparency.

Recommendations by Supervisor Joel Anderson
Direct the Chief Administrative Officer to return to the Board within 120 days with recommendations and options to update County retention standards, including establishing a minimum five-year retention requirement for County records and communications, including emails and text messages, and include the estimated cost, potential funding source(s), and other considerations to implement each identified option.

Equity Impact Statement
Approval of this item will enhance the ability of all County residents and others, regardless of their ethnicity, economic situation, age, physical condition, religious beliefs, or other backgrounds or characteristics, to access all public records and communications produced using County taxpayer-funded resources. Equal access to public information fosters systemic accountability and ensures that historically underserved communities have an uncompromised window to request and evaluate local governance data used to develop public policy.

Sustainability Impact Statement
While the recommended action may result in the use of additional technology storage, it supports overall organizational sustainability through the establishment of consistent and legally compliant public records retention and management procedures. It will also help to ensure that County resources are used to enhance transparency and open government.

Fiscal Impact
There is no fiscal impact associated with today's action. Although there may be future fiscal impacts, which staff would return to the Board for consideration and approval, there will be no change in net General Fund cost and no additional staff years as a result of this recommendation.

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Business Impact Statement
The recommended action will provide the region's business community, contractors, and other stakeholders with a reliable, predictable policy regarding the County's retention of public records and communications, strengthening fair contracting processes and lowering transactional risks.

Advisory Board Statement
N/A

Background
California Government Code Sections 12236 and 26202 et seq. mandates that county governments properly retain, appraise, and manage public records based on their type and purpose pursuant to guidelines set by the Secretary of State. Additionally, Government Code Section 7920.000 et seq., known as the California Public Records Act, requires government agencies to disclose certain public records upon request. Public records may include paper documents, emails, computer data and audio or visual recordings.

The Secretary of State's Local Government Records Program provides guidance for local governments to establish protocols for the inventory, appraisal, scheduling, and disposition of public records, while continuously monitoring relevant statutory changes. Government Code Sections 26202 et seq. permit the County to establish how documents that are official records are to be retained provided that they be retained for at least two years and provided that no other law requires a longer retention period or that they be retained in perpetuity. Board Resolution 18-156 grants authority to the Chief Administrative Officer to approve and implement document retention schedules for the County and its departments.

Pursuant to these requirements, the County of San Diego governs its document lifecycle through three primary mechanisms:

- **Board Policy A-129, Compliance with the Countywide Records Management Program**: Serves as the County's central framework and master standard for all administrative, fiscal, and legal record series across all formats (paper, electronic, film, and magnetic). The County has adopted a global retentions schedule for certain types of documents that are relevant for all departments.

- **Chief Administrative Officer Administrative Manual 0040-09 (Document and Records Management Program)**: Establishes standardized procedures for all County offices regarding the retention, storage, and legal destruction of data, including strict protocols to suspend destruction during ongoing litigation or audits.

- **Departmental Records Retention Schedules**: Manage specific, localized operational compliance through tailored department schedules. These retention schedules are periodically reviewed and updated and focus on documents specific to each department.

These requirements apply to what are defined in Chief Administrative Officer Administrative Manual Item 0040-09 as "official records," and are those made for the purpose of disseminating information to the public, memorializing an official transaction, or conducting official duties.

These records generally exclude drafts, notes, and inter-agency memoranda not kept in the ordinary course of business. Although the County has been successful in following its policies and plans to comply with the State's retention and disclosure requirements for public records, there are no requirements to ensure all records and communications created using County equipment and resources are adequately maintained. In addition, the policies and plans that guide the retention and management of official records often vary depending on individual departmental retention schedules and management practices, which can cause uncertainty and confusion for those requesting documents.

For example, electronic communications such as emails and text messages may not meet the criteria necessary to be considered official records and are not automatically subject to the same retention requirements as official records. As a result, email and text data cannot be recovered if it is lost, damaged, or otherwise undiscoverable. Additionally, if an email is not characterized as an official record or required to be retained under a litigation hold, it is automatically deleted after two years. There is no retention requirement for text messages sent or received on County-issued devices. Once emails and texts are deleted, the County's technology team does not have the ability to retrieve these deleted communications.

Because of these automatic deletion policies, there is an unfortunate possibility that the County is spoliating vital information that the County could otherwise use to investigate potential misconduct or defend itself from external actions may be deleted and unrecoverable. As recent events have demonstrated, the early destruction of documents and communications can prevent the County from adequately conducting audits and properly addressing accusations, complaints, criminal activity, claims or lawsuits filed against the County.

Some jurisdictions, such as the California State Legislature, have the ability to recover communications even after they are deleted. Deleted emails can be retrieved from a cache by pulling deleted emails directly from the server backend. Only those emails that have been permanently wiped from the server backup archives can no longer be recovered. Because the County does not share that same ability to retrieve deleted emails, once these communications are deleted, they are no longer recoverable.

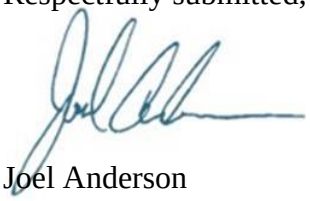
Additionally, the current fragmentation between various departmental document retention schedules could also result in operational risks and confusion by the public we serve. Disparate retention timelines may cause uncertainty for the public and the media attempting to access information while impacting the County's ability to transparently respond to California Public Records Act requests. Although the Transparency Advisory Committee I co-chaired previously advanced access to public information by recommending that the County extend its email auto-deletion policy from 60 days to two years, the current framework requires further changes to safeguard the County.

To eliminate the current level of uncertainty resulting from inconsistent retention practices, prevent accidental spoliation and enhance organizational protection, I recommend that the County pursue the establishment of a five-year minimum retention requirement for all County public records and communications. This would include the retention of County documents, including email and text messages, even if they are not classified as official records. I also

recommend increasing the current automatic email deletion policy from the current two-year deletion requirement to a five-year deletion requirement. These actions will ensure vital data remains securely preserved, accessible to the public, the media and legal teams pursuant to the California Public Records Act, and fully supportive of governmental transparency.

Linkage To The County Of San Diego Strategic Plan
The recommended action supports the County of San Diego's 2026-2031 Strategic Plan Empower (Transparency and Accountability) and Community (Communications) initiatives by maintaining program and fiscal integrity through reports, disclosures and audits and by creating proactive communication that is accessible and transparent.

Respectfully submitted,



Joel Anderson
Supervisor, Second District

Attachment(s)
N/A