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## Coates' Canons Blog: Animal Services Records: Common Threads for Different Programs

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Article: <https://canons.sog.unc.edu/animal-services-records/>

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Animal services programs have a variety of local government homes – they may be in the local health department, law enforcement agency, city or county administration, or a standalone department. There are also intergovernmental programs, such as a county agreeing to administer some or all of a municipality's animal services program, and collaborations with the nonprofit community. Because these programs have so many different organizational homes and administrative structures, I suspect that they have adopted a wide range of records management practices. There should, however, be some common threads that tie these records practices back to the law. This post highlights some of the laws and policies that should apply to all of the programs, wherever they are housed.

### Public Records

As a general rule, records generated by local government animal services programs are public records and state law guarantees the public a right of access to some of those records. My colleagues have written extensively about the nuances of public records law (see the "Open Government" group of Blog Topics) so I won't go into any detail here but I thought I would highlight some key points that often arise in the animal services arena.

- Many of the records maintained by animal services programs will be considered public records. There are, however, some specific exceptions that come into play (see below). This post provides a useful framework for evaluating whether a record is a public record.
- The law requires the "custodian" of public records to provide access. While the head of the agency responsible for the animal services program is likely the "custodian" of the records, everyone involved with the program has an obligation to manage and retain records in order to preserve the right of public access.
- Any person can request public records. The requester is not required to be a resident of the state or the specific jurisdiction involved.
- Some personnel information is a public record. This post includes a helpful summary of the law in this area. In addition, I would recommend this post, which explains some 2015 changes related to personal information of law enforcement officials.
- A private entity that has an integrated relationship with a government entity, such as an animal shelter, may be subject to public records laws in some circumstances. This post explains the legal analysis that comes into play.

### Exceptions

As mentioned above, most animal services program records will be considered public records. There are, however, two areas where an exception may apply – records related to (1) criminal investigations and (2) communicable diseases. As my colleague, Frayda Bluestein, explained:

Some exceptions are described as exceptions to the right of access, though they do not prohibit the release of records.... In these cases, the public agency is not required to provide the records, but it may if it chooses to. Other exceptions ... actually prohibit disclosure.

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The criminal investigation exception falls in the first category – an animal services program is not required to provide records in response to a request, but it is allowed to do so. The communicable disease exception falls into the second category – an animal services program is not allowed to provide access in response to a public records request to any information that is confidential under that law.

### ***Criminal Investigations Records Exception***

The exception for records of criminal investigations allows a public law enforcement agency to withhold some information that is included in an investigation record. The term “public law enforcement agency” is defined broadly enough to include most, if not all, animal services programs because it encompasses not only traditional law enforcement agencies, such as police and sheriff’s departments, but also “any State or local agency, force, department, or unit responsible for investigating, preventing, or solving violations of the law.” See G.S. 132-1.4(b)(3). The records governed by this exception include “all records or any information that pertains to a person or group of persons that is compiled by public law enforcement agencies for the purpose of attempting to prevent or solve violations of the law, including information derived from witnesses, laboratory tests, surveillance, investigators, confidential informants, photographs, and measurements.” G.S. 132-1.4(b)(1). This law is relatively complex so before relying on it to deny a public records request, I would recommend conferring with your local government attorney and possibly reviewing David Lawrence’s *Public Records Law for North Carolina Local Governments* (Chapter 8).

### ***Communicable Disease Exception***

The second exception of interest to animal services programs is the state’s communicable disease confidentiality law, G.S. 130A-143. Under that law, any information that identifies a person who has or may have a reportable communicable disease or condition – including human rabies – is “strictly confidential” and may be disclosed only under limited circumstances. When an animal services program receives a report that an animal has bitten a human and either the animal is unvaccinated or the animal’s vaccination status is unknown, the program must treat information about the bite victim as confidential pursuant to this state law. As a result, if the program receives a public records request during the time the person’s rabies status is unclear (i.e., “may have” a reportable communicable disease), it must not release information that identifies the person without the person’s consent or a court order. Once it is clear that the person does *not* have rabies, this confidentiality law no longer applies and information that identifies the victim may be released.

## **Records Retention**

Like other components of local government, animal services programs are required to comply with records retention requirements issued by the State. See G.S. 121-5 and G.S. 132-8. The State Archives of North Carolina, which is part of the Department of Natural and Cultural Resources, is responsible for developing the retention schedules and providing technical assistance to local governments on these issues. Retention schedules must be approved by the local government’s governing body, such as the board of county commissioners, city council, or, for health departments, the local board of health or consolidated human services board.

Because animal services programs are not housed or administered uniformly across local governments, the state integrated records for these programs into several different retention schedules (see this helpful blog post from the State Archives explaining the different schedules). I was able to find references to animal services in the following four schedules:

- Health Department
- County Management
- Municipal
- County Sheriff’s Office

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Most of the provisions in the county and municipal schedules are aligned. There are a few minor differences. For example, the municipal schedule identifies “animal cruelty records” as a records series and the county schedule does not. The county schedule identifies “animal license records” as a records series but the municipal schedule does not. Overall, the differences are not substantial and the timelines are synchronized.

There are, however, numerous minor and a few significant differences between those two schedules and the health department schedule. In some instances, retention timelines are different, such as:

- Animal adoption records: 3 years for the health department and 2 years for the others.
- Animal abuse cases: 3 years for the health department and 5 years for the others.
- Shelter disposition records: 3 years for the health department and 1 year for the others.

The schedule for the Sheriff’s office includes only one provision entitled “animal control records.” That provision is identical to language included in the municipal schedule (Standard 3, Item 7). The general concepts included in that provision also overlap with provisions in both the county and health department schedules and don’t appear to create any conflicts.

Because of the differences between the retention schedules and the complexity of the animal services system in our state, it seems reasonable for programs and local governments to review all of the potentially applicable schedules in order to determine obligations under the law. Programs may also want to consult with the excellent team of records management analysts from the State Archives when harmonizing the requirements and adopting a schedule for a particular program.

## Shelter Records

Another common thread worth mentioning is the state regulations governing animal shelters. Shelters operated by local governments or by a private organization under contract with a local government are subject to oversight by the state’s Department of Agriculture and Consumer Services. The shelters must comply with requirements in G.S. Chapter 19A, Article 3 and the accompanying regulations, found in Title 2, Chapter 52J of the NC Administrative Code.

The regulations require shelters to maintain certain records and make those records available to inspectors from the Department upon request. For example, the shelter must maintain a record of every dog and cat that includes a description of the animal as well as information about the animal’s origin, location, veterinary care, and ultimate disposition. The shelter must be able to “match each animal to its record upon request.” 02 NCAC 52J .0103. They are also required to compile and maintain a robust policy manual that includes specific categories of information, including details about the shelter’s euthanasia practices and staff. Note that this policy manual and related information will also be considered public records.

Local government animal services programs that operate or have relationships with animal shelters should ensure that these recordkeeping requirements are followed. It is clear that state inspectors are paying close attention to this type of recordkeeping. See this example of a recent civil penalty imposed on Forsyth County for violations of these requirements.

## Conclusion

While working with staff and volunteers from the animal services field over the last decade, I’ve been struck by their professionalism as well as their profound commitment to the work. Records management is certainly not the most exciting part of their jobs but it does seem to be an essential one that deserves serious attention from management, supervisors, and staff. If others in the field can identify additional common threads or have records management practices to share, please offer a comment or send your thoughts to me directly.

## Links

- [canons.sog.unc.edu/animal-control-who-is-responsible-2/](https://canons.sog.unc.edu/animal-control-who-is-responsible-2/)
- [canons.sog.unc.edu/category/open-government/](https://canons.sog.unc.edu/category/open-government/)
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  - [www.ncga.state.nc.us/enactedlegislation/statutes/html/bysection/chapter\\_132/gs\\_132-1.4.html](http://www.ncga.state.nc.us/enactedlegislation/statutes/html/bysection/chapter_132/gs_132-1.4.html)
  - [www.sog.unc.edu/publications/books/public-records-law-north-carolina-local-governments-second-edition](http://www.sog.unc.edu/publications/books/public-records-law-north-carolina-local-governments-second-edition)
  - [www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_130A/GS\\_130A-143.pdf](http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_130A/GS_130A-143.pdf)
  - [www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_121/GS\\_121-5.pdf](http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_121/GS_121-5.pdf)
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  - [archives.ncdcr.gov/For-Government](http://archives.ncdcr.gov/For-Government)
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  - [archives.ncdcr.gov/Portals/3/PDF/schedules/Local%20Schedules/Local\\_Health\\_Departmens\\_20070907t.pdf?ver=2016-03-11-084038-573](http://archives.ncdcr.gov/Portals/3/PDF/schedules/Local%20Schedules/Local_Health_Departmens_20070907t.pdf?ver=2016-03-11-084038-573)
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  - [www.ncleg.net/EnactedLegislation/Statutes/PDF/ByArticle/Chapter\\_19A/Article\\_3.pdf](http://www.ncleg.net/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_19A/Article_3.pdf)
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  - [www.ncagr.gov/vet/aws/Inspections/Forsyth\\_County/documents/AWS-CP-2016-4.pdf](http://www.ncagr.gov/vet/aws/Inspections/Forsyth_County/documents/AWS-CP-2016-4.pdf)