The Quick Guide to Law Firm Document Shredding

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Document shredding can be a touchy subject for law firms. Can you really throw that document away, or are you obligated to keep it?

With a multitude of rules to follow for different document types and jurisdictions—not to mention considerations about what your clients want—it can be hard to know how long you should keep your files. For some, it might seem easier to simply keep all of your documents for as long as possible. Better safe than sorry, right?

Not so much. Avoiding the paper shredder for too long can have real consequences for your law firm. Storage costs stack up more quickly than you might think.

Take a look at our guide below to get started with shredding your old files and saving your firm money.

Why shredding old documents can help your firm grow

Real estate isn't cheap. In 2015, top U.K. law firms spent about £18,200 per person per year on real estate, according to results of a survey by The Lawyer (subscription needed). In the United States, office space in big cities like New York can cost over $100 per square foot.

However, shred your old documents, and you'll no longer need space to store them. You just might be able to move to a smaller, cheaper office—or even ditch your office space altogether.

Imagine what you could do with a little money saved. You could invest in online marketing to get more clients, or in tools to help you run your firm more efficiently. Both of these options will do more to help your firm grow than paying to store paper ever will.

What to shred (and what to keep)

So, what can you shred, and what do you need to keep?

There are three categories of documents that law firms need to look at: dated legal material, financial information, and case files.

1. Dated legal information

You may be able to shred some of your old legal reference material—but not all of it. Some out-of-date legal material will still have its uses.

Say you set up a trust in the 1960s and it becomes relevant to a case today. The law has changed since the 1960s. How do you find the original laws?

CanLII is an excellent source for tracking how Canadian laws have changed over time, while the British and Irish Legal Information Institute (BAILII) is the place to go for historic U.K. laws.

For U.S. law, you'll want to check out the "Caselaw Access Project," under which Harvard Law School is digitizing its entire collection of U.S. case law, one of the largest collections of legal materials in the world. It includes 40,000 books and 40 million pages of court decisions, including items that predate the U.S. constitution.

Take time to check whether your old legal materials are included in these resources, and only throw out your old legal material if you know you can find a dated copy of it in a legal library or online.

2. Financial information

Every jurisdiction has different rules for how long you should retain your financial records. Instead of keeping everything forever, review what you're required to keep and how long you're required to keep it. Then, securely shred what you no longer need.

Often, lawyers are required to keep financial records for five to ten years. But it can get much more complicated than that.

Let's take Florida as an example. Under 5–1.2(b) of the Rules Regulating The Florida Bar, Florida lawyers may retain copies of their required trust accounting documents in "their original format or stored in digital media as long as the copies include all data contained in the original documents and may be produced when required." That means lawyers can scan their documents into PDFs to satisfy their storage requirements for as long as needed—in this case, six years.

While lawyers in Florida may shred their cancelled checks, they still have requirements that must be met for keeping honored ones. For example, scanned copies of checks must clearly be legible and include all endorsements (Rule 5–1.2(b)(3)(C)). That means using a quality scanner to get a good copy, and scanning both the front and back of each check to capture all the information. Just because you can keep an electronic copy and shred the paper original does not excuse a lawyer from keeping proper records.

And of course, this is only examining the requirements for trust records. Florida lawyers have requirements that lawyers keep documents relating to contingency fees (Rule 4–1.5(f)(5)), advertising (Rule 4–7.19(j)), and more.

In short, double check the rules before you shred financial information. And when you do get rid of those documents, make sure you shred and dispose of them securely.

3. Case files

This is where things really get tricky. Whether or not you can dispose of a case file depends on your area of practice and whether or not these legal documents would be helpful in the future.

For example, wills should never be destroyed. Documents relating to real estate transactions should not be destroyed, even after the period for which you're required to keep documents in your jurisdiction has ended..

Also, you'll need to consider whether or not electronic copies are acceptable in your jurisdiction. In many places, lawyers can digitize everything, except for a very narrow niche of documents where the original must be held.

But you'll need to be careful: Rule 1.15(d)(3) of the New York State Unified Court System's Professional Rules of Conduct states that New York lawyers must maintain copies of items such as bills and compensation and retainer agreements, but that they must keep records of deposits into firm accounts and special accounts.

It's important to distinguish between "records" and "copies" here. Records must be kept in their original format. For example, if you get paper cancelled cheques, you have to keep the originals.

New York lawyers may satisfy "the requirements of maintaining 'copies' by maintaining any of the following items: original records, photocopies, microfilm, optical imaging, and any other medium that preserves an image of the document that cannot be altered without detection." Most importantly, your decision to keep or dispose of a case file should be

based not only on jurisdictional rules, but on the interests of your client. The rules may say you can throw out a file after seven years, but will your client be interested in that information for longer?

Talk to your clients about how long they'd like to store their information prior to starting their case and again as part of closing their case. That way, you'll have all the details ironed out from the beginning.

Parting thoughts

When you're running a law firm, every dollar counts—especially the dollars you're spending on space. Overall, real estate costs eat up nearly five percent of law firm budgets on average, according to *The American Lawyer*.

Don't waste money on storage costs. Look at your old legal reference material, case files, and financial information, and then securely shred what you no longer need to keep. What you do with the money and space you'll save is entirely up to you.

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