



Judicial Council of California . Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 29, 2010

Title

Judicial Branch Administration: Superior Court of Marin County Audit Report for Judicial Council Acceptance

Agenda Item Type

Action Required

Effective Date

October 29, 2010

Rules, Forms, Standards, or Statutes Affected

None

Date of Report

October 19, 2010

Recommended by

Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch
Hon. Tani Cantil-Sakauye, Chair

Contact

John A. Judnick, 415-865-7450
john.judnick@jud.ca.gov

Administrative Office of the Courts
John A. Judnick, Senior Manager
Internal Audit Services, Finance Division

Executive Summary

The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch (A&E) recommends, after consultation with Administrative Office of the Courts (AOC), that the Judicial Council accept the attached audit report concerning the Superior Court of California, County of Marin, entitled *Investigation Report: Destruction of Family Court Mediator Working Files*. This complies with the policy approved by the Judicial Council on August 27, 2010, which specifies Judicial Council acceptance of audit reports as the last step to finalization of the reports. Acceptance and publication of audit reports will enhance accountability and provide the courts with information to minimize financial, compliance, and operational risk.

Recommendation

The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch and the Administrative Office of the Courts recommend that the Judicial Council, effective October 29, 2010, accept the following “pending” audit report (Attachment A):

Audit report dated August 2010 entitled: *Superior Court of California, County of Marin, Investigation Report: Destruction of Family Court Mediator Working Files*

This acceptance will result in the removal of the “pending” watermark, and the audit reports will then be placed on the California Courts public website.

Previous Council Action

The Judicial Council at its August 27, 2010, business meeting approved the following two recommendations that established a new process for review and acceptance of audit reports:

1. Audit reports will be submitted through the Executive and Planning Committee to the Judicial Council. Audit reports will not be considered “final audit reports” until formally accepted by the council.
2. All final audit reports will be placed on the California Courts public website to facilitate public access. This procedure will apply to all reports accepted by the Judicial Council after approval of this recommendation.

Rationale for Recommendation

Council acceptance of audit reports submitted by the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch through the Executive and Planning Committee is consistent with the council’s policy for such matters (described under “Previous Council Action”) and with its responsibility under Government Code section 77009(h), which states that “[t]he Judicial Council or its representatives may perform audits, reviews, and investigations of superior court operations and records wherever they may be located.”

Comments, Alternatives Considered, and Policy Implications

Comments and policy implications

The process established for ‘finalizing’ an audit report involves extensive reviews and discussions with the entity being audited. This review and discussion process additionally allows for the entity being audited to request an additional review of the draft audit report by the Chief Deputy Director prior to the audit report being placed in a pending status and presented to the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch (A&E) for review and discussion. At that point in the review process, additional comments from A&E could result in further discussions with the entity being audited before the committee recommends acceptance of the report to the council.

Additionally, the Judicial Council, in December 2009, adopted rule 10.500 of the California Rules of Court, effective January 1, 2010, that provides for public access to nondeliberative or nonadjudicative court records. Final audit reports are among the judicial administrative records that are subject to public access unless an exemption from disclosure is applicable. The exemptions under rule 10.500(f) include records whose disclosure would compromise the security of a judicial branch entity or the safety of judicial branch personnel. As a result, information considered to be of a confidential or sensitive nature that would compromise the security of the court or the safety of judicial branch personnel are omitted from audit reports. In accordance with auditing standards, disclosure of the omissions is included in the applicable reports.

Alternatives

No alternatives were considered as the recommendation is consistent with approved council policy and with the provisions of Government Code section 77009(h).

Implementation Requirements, Costs, and Operational Impacts

The proposed recommendation imposes no specific implementation requirements or costs, other than the requirement to disclose the attached audit reports through online publication.

Relevant Strategic Plan Goals and Operational Plan Objectives

The recommendation contained in this report pertains to the activities of Internal Audit Services (IAS) and the role it plays in the judicial branch as an independent appraisal entity. IAS's role as an evaluator is important for both the strategic and operational plans of the judicial branch. Specifically, IAS plays an important role as evaluator under strategic goal II, Independence and Accountability, specifically Goal II.B.4, by helping to establish fiscal and operational accountability standards for the branch to ensure the achievement of and adherence to these standards. Additionally, IAS has an important role in fulfilling several of the objectives of the operational plan related to Goal II because its work pertains to the requirement that the branch maintain the highest standards of accountability for its use of public resources and adherence to its statutory and constitutional mandates. Part of the role and responsibility of IAS also relates to Objective II.B.4 because the audit reports it produces help to measure and regularly report branch performance.

Attachment

Attachment A: Audit report dated August 2010 entitled: *Superior Court of California, County of Marin, Investigation Report: Destruction of Family Court Mediator Working Files*



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

FINANCE DIVISION

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RONALD M. GEORGE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

STEPHEN NASH
Director, Finance Division

August 11, 2010

Hon. Terrence R. Boren
Presiding Judge of the Superior Court of California,
County of Marin
3501 Civic Center Drive
P.O. Box 4988
San Rafael, California 94913-4988

Dear Presiding Judge Boren:

I have completed the investigation of the destruction of mediator files and notes that you requested. Enclosed is the investigation report entitled *Superior Court of California, County of Marin, Investigation Report: Destruction of Family Court Mediator Working Files*.

Sincerely,

John Judnick
Senior Manager
Internal Audit Services

JAJ/Attachment



SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN

INVESTIGATION REPORT:
DESTRUCTION OF FAMILY
COURT MEDIATOR WORKING
FILES

CONFIDENTIAL



ADMINISTRATIVE OFFICE
OF THE COURTS

FINANCE DIVISION
INTERNAL AUDIT SERVICES

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TABLE OF CONTENTS

	Page
I. INVESTIGATION SUMMARY	1
II. STATUTE AND RULES OF COURT	4
III. COURT POLICY AND PROCEDURES	4
IV. FAMILY LAW COURT BACKGROUND	5
V. SCOPE OF WORK	6
VI. SPECIFIC ALLEGATIONS	6
VII. DETAIL OF ACTIONS AND DATES (TIMELINE)	7
VIII. APPENDICES	
1. Emails From Ms. Kauffman Containing Specific Allegations	
2. Emails Between Marin Superior Court CEO and AOC Office of General Counsel Regarding Retention Of Mediator Working Files	
3. Relevant Statutes and Rules of Court	
4. Marin Superior Court Records Retention and Destruction Policy – Non- Deliberative and Non-Adjudicative Records (Adoption Date 11-19-2009)	

I. INVESTIGATION SUMMARY

Request

On Thursday July 1, 2010, Ms. Barbara Kauffman sent an email (signed as Barbara Kauffman for JusticeCalifornia) to the following individuals:

Chief Justice Ronald George;
Ms. Lynn Holton, AOC Public Information Officer; and
State Assembly Member Dave Jones.

The email specified as a general allegation that “Marin County custody mediation files” were being destroyed in violation of statute. Attachment 1 to this report is the email string containing Ms. Kauffman’s allegations and requesting an investigation and other actions. Ms. Kauffman sent three emails concerning the matter (July 1, July 5, and July 7, 2010) and included other addressees in her last two emails.

Internal Audit Services (IAS) was requested in a phone call on July 9, 2010, by Presiding Judge Terrence Boren of the Superior Court of California, County of Marin (Court) to investigate the allegations contained in the emails of July 1, 2010 through July 7, 2010. Other actions, including personnel actions, were requested by Ms. Kauffman in her emails but they are not within the scope of this investigation.

Allegations

The allegations by Ms. Kauffman specifically are:

1. “Marin County custody mediation files” were illegally destroyed.
2. Ms. Kim Turner, Court Executive Officer (CEO) of Marin Superior Court, illegally ordered the destruction of records maintained in the mediation files. This included handwritten notes of the mediators.

More detailed explanations of the general allegations above are contained in section VI of this report.

Court Records and Mediator Files

An important consideration to this investigation was to determine whether mediator working files and mediator notes are considered court records. This is important as the retention of court records is specific and detailed in various statutes and rules of court (see Appendix 3, section 9, Government Code section 68150-68153). The discussion below concerns this review. Local court policies and procedures appear to control the retention periods of the documents contained in the mediator working files after the mediator report is submitted to the court by the mediator.

California Code of Civil Procedure Section 1904 states that “a judicial record is the record or official entry of the proceedings in a Court of justice, or of the official act of a judicial officer, in an action or special proceeding.” Additionally, California Rules of Court (CRC) in Trial Court Records Management (10.855) defines a court record as “all papers and documents in the case folder...” and in CRC in Public Access to Electronic Trial Court Records (2.502) a court record is defined as “any

document, paper, or exhibit filed by the parties to an action or proceeding; ... The term does not include the personal notes or preliminary memoranda of judges or other judicial branch personnel.”

Mediation working files, including handwritten or typed notes, are used to produce the mediator’s report to the court and are not included in official case files or records of the court. Once the report is submitted to the court it is considered a court record as it contains any and all of the information considered necessary by the mediator for the court to reach a decision. Local court policies and procedures would control the retention periods of the documents contained in the mediator working files after the mediator report is submitted to the court by the mediator. CRC 10.610, a duty of the court executive officer is to “create and manage uniform record-keeping systems, ..., as required by the court and the Judicial Council.” As such the court executive could determine that the files and notes should be destroyed after completion of the mediator report to the court.

Audit by the Bureau of State Audits

The emails of Ms. Kauffman reference the ongoing audit that is being conducted by the Bureau of State Audits. In May 2009, State Senators Leno, Yee, and Wiggins, and Assembly Members Coto, Nielsen, Ma. Beall, and Smyth requested an audit of the California Family Court System with respect to the use of court appointees in child custody disputes. On June 24, 2009, the Bureau of State Audits (BSA) was approved by the Joint Legislative Audit Committee (JLAC) of the California Legislature to conduct the audit to provide independently developed and verified information related to child custody cases in the family court system. The BSA specifically identified the Sacramento and Marin County Family Courts to be tested for this purpose. The BSA initiated their audit in August 2009. The entrance meeting of the BSA with Marin Superior Court was held on Monday August 10, 2009. As of this date, they are conducting their audit.

According to the *Analysis of Audit Request* letter sent by BSA to and approved by JLAC, the audit covers the most recent four-year period and will sample contested custody cases from that period of time. It is primarily a process audit to evaluate and assess the appointment, payment, training, and evaluation of court-appointees, including mediators. Under Government Code section 8545.2(c), ‘any officer or person who fails or refuses to permit access and examination and reproduction, as required by this section, is guilty of a misdemeanor.’ The determination of whether or not the documents destroyed by the Court are necessary for their audit is BSA’s and not this investigator.

Overall conclusion

There is nothing that appears to be illegal concerning the destruction of mediator working files, or the destruction of any ‘handwritten notes’ prepared by mediators in family law matters included in those files. Mediator working files, including any ‘handwritten notes,’ are not considered ‘court records’ according to statute and CRC and therefore not subject to court record retention requirements. Once the mediator report is completed, submitted to the court, and accepted by the court, working notes and working files may be destroyed in accordance with local policy and procedures. The mediator report would be considered the only court record of the mediator.

It is considered to be a local court decision (specifically part of the duties of the court executive officer under CRC 10.610, included in Appendix 3 of this report) as to whether and when these working files and notes may be destroyed after the report is accepted by the Court. The Court’s policy and procedure concerning the mediator working files controls their retention period. The Court’s executive officer authorized the destruction of the mediator working files, after consultation with the AOC’s Office of General Counsel, and subsequently they were destroyed. Government

Code Section 6200 concerning an officer willfully destroying "records" therefore does not appear to this investigator to be applicable.

Additionally, there is no indication that any official case file(s) or other "court records" were directed to be, or actually, destroyed other than what the Court may have done in accordance with statute or CRC.

II. STATUTE AND RULES OF COURT

Appendix 3 contains the relevant statutes and rules of court that were reviewed as part of this investigation. Below in section B and C are the two specific citations in the allegations of Ms. Kauffman.

A. Office of General Counsel Advice to the Court Regarding Destruction of Records

According to my discussion with the AOC Office of General Counsel, Ms. Turner contacted OGC in September 2009 concerning whether a mediator's notes (handwritten or otherwise documented) could be destroyed. Ms. Turner was verbally advised that a review of statute and rules of court indicated that the handwritten notes are not considered part of the official case file and do not fit the definition of court records. As such, it was considered a local court decision as to whether and when these notes could be destroyed. This advice was followed up by an email to the Court. (See Appendix 2 for the email from OGC to the Court and other related emails.)

B. Records retention requirements

Family Code Section 1819 (See Appendix 3 for sections 1810 through 1820)

(a) Except as provided in subdivision (b), upon order of the judge of the family conciliation court, the supervising counselor of conciliation may destroy any record, paper, or document filed or kept in the office of the supervising counselor of conciliation which is more than two years old.

(b) Records described in subdivision (a) of child custody or visitation mediation may be destroyed when the minor or minors involved are 18 years of age.

(c) In the judge's discretion, the judge of the family conciliation court may order the microfilming of any record, paper, or document described in subdivision (a) or (b).

C. Destruction of records

Government Code Section 6200 (See Appendix 3 for entire section)

Every officer having the custody of any record, map, or book, or of any paper or proceeding of any court, filed or deposited in any public office, or placed in his or her hands for any purpose, is punishable by imprisonment in the state prison for two, three, or four years if, as to the whole or any part of the record, map, book, paper, or proceeding, the officer willfully does or permits any other person to do any of the following:

(a) Steal, remove, or secrete.

(b) Destroy, mutilate, or deface.

(c) Alter or falsify.

III. COURT POLICY AND PROCEDURES

The current Marin Superior Court policy and procedure concerning records destruction are specifically documented in a policy adopted on Nov. 11, 2009. This written and approved policy was subsequent to the destruction of the mediator working files and notes. This policy in section VII, No Retention Required, specifies that "Records (including originals and duplicates) that are not otherwise required to be retained may be destroyed when no longer useful to the drafter. Examples include research materials and documents generated for the convenience of the originator (e.g. raw

notes prepared by mediators, investigators, supervisors, ...).” This policy is included in Appendix 4 of this report.

Through interviews and reviews of records of the court, the prior policy concerning mediator working files and notes was not documented but the general working practice appears to be 5 years.

IV. FAMILY LAW COURT BACKGROUND

As required by state law enacted in 1993, the Judicial Council, the policymaking body of the California Courts, established a statewide office of Family Court Services to establish uniformity in the family court system from county to county. More specifically, that office (1) assists counties in implementing mandatory mediation of child custody and visitation disputes, (2) establishes a uniform statistical reporting system, (3) administers a research and development program, and (4) administers a training program for court personnel involved in family law proceedings. More recently, in May 2008, the Elkins Family Law Task Force was appointed to conduct a comprehensive review of family law proceedings and to make recommendations to the Judicial Council on how to improve these proceedings.

Superior court judges are assigned to family courts in all 58 counties and they look to guidance from the Judicial Council. State law requires mediation as a means of settling child custody issues in lieu of a hearing before a judge. If mediation does not result in a child custody agreement, the parties will have a hearing before a judge. The mediator may make recommendations that the judge may consider in resolving the child custody issues in the case.

When rendering decisions in custody disputes, state law requires judges to make decisions that are in the best interest of the children involved. In addition to mediators, judges rely on other professionals in making their decisions. For example, a judge may appoint a child custody evaluator who has completed domestic violence training to make recommendations to the court and the judge may rely upon the report of that evaluator. Each parent may also hire similar evaluators whose recommendations the judge also may consider in making his or her decision. At times the court-appointed evaluator might recommend separate court-appointed counsel for the child. In any custody dispute that the judge determines involves serious allegations of child sexual abuse, the judge must appoint a psychiatrist or other mental health professional to examine the parents and the child and to provide a report and testimony at trial.

Also see:

- Appendix 3, section 2, for Family Code section 1810 through 1820 on Family Conciliation Court. Marin Superior Court does not have a Family Conciliation Court.
- Appendix 3, section 8, for CRC 5.210 on Court-connected custody mediation storage and disposal of records requirements, and section 4 of the same appendix for the Family Code section concerning mediators and their responsibilities.

V. SCOPE OF WORK

The primary work performed in this investigation consisted of interviews that are specified below and review of statute, rules of court, and policies and procedures.

Interviews

IAS conducted interview of numerous court employees during the course of this investigation. The employees and their position included:

Ms. Kim Turner, Court Executive Officer
Ms. Cheri Brannon, Deputy Court Executive Officer
Mr. Scott Besada, Human Resources manager, effective January 1, 2010 assumed
responsibility for mediators
Mr. Ed Ramazzini, Court Specialist III
Mediators:
Meredith Braden
Kristen Diefenbach
Gloria Wu

IAS interviewed the following judicial officers of the Marin Superior Court (Court). The judicial officers interviewed were:

Presiding Judge Terrence Boren (effective January 2010)
Family Law Supervising Judge Fae D'Opal, Family Law Supervising Judge

IAS interviewed the following members of the AOC:

Mr. Chad Finke
Mr. Eric Schnurpfeil
Ms. Mikayla Connell

VI. SPECIFIC ALLEGATIONS

These are the specific, detailed allegations of Ms. Kauffman and can be seen in more detail in the emails she sent that are included in Appendix 1 of this report.

Allegation 1. Marin County custody mediation “files” were illegally destroyed.

Ms. Kauffman stated in her July 7, 2010 email that:

There is such a thing as a ‘mediation file’ which is distinct from the court clerk’s pleadings files. The mediation file contains all kinds of things—pleadings copied to the mediators, information provided to the mediator by the parties, the mediator’s notes of meetings and phone calls, and also notes of staff meetings about the case.

Braden testified that the mediation files – not just the handwritten notes—were destroyed.

Braden's associate said there was nothing left of the mediation file.

In Ms. Kauffman's July 5, 2010 email, she referred to the Heierle and Assawasuksant case. That trial took place in March and April, 2006—the mediation took place and the report was issued in 2005. The notes were intact and accessible according to the review of the Reporter's Transcript Of Proceedings.

We subpoenaed the 2005 mediation records for the 2006 trial, and got the notes about the ... Similarly, during the August 2007 Heierle/Assawasuksant trial, the mediator retrieved and referred to her April/May 2007 mediation notes.

I have other case records as well, where the notes were intact after the report was issued.

Allegation 2. Ms. Kim Turner, Court Executive Officer (CEO) of Marin Superior Court, illegally ordered the destruction of records maintained in the mediation files. This included handwritten notes of the mediators.

July 1, 2010 email referring to the Reporter's Partial Transcript of Proceedings: Partial Testimony of Meredith Braden (Court mediator in Jaros vs. Snyder)

Ms. Kauffman stated in her email that according to the testimony of Meredith Braden, Marin Family Court Services mediator, in a case involving a young child, a policy directive "that we were no longer keeping files" came through her supervisor, Mr. Leo Terbieten, from "above him." The files were then "all destroyed." It was assumed in the testimony that the policy directive was from Ms. Turner, the CEO. Due to the above, Ms. Kauffman states that there are violations of state law, illegal destruction of court records (especially while an audit is going on), and the safety of children is jeopardized.

VII. DETAIL OF ACTIONS AND DATES (TIMELINE)

This section of the report provides a short listing of certain relevant events and actions to provide some context to the conclusions reached in the summary of this report. Most of the emails referred to below are all contained in Appendix 2 of this report.

Prior to July/August 2009

Mr. Eric Schnurpfeil of the AOC Office of General Counsel is a primary contact of the Court regarding assistance with mediator depositions. Both Ms. Turner and Mr. Schnurpfeil stated in interviews that discussions consistently concerned the destruction of mediator notes. It was felt that by both individuals that after the mediator report is prepared, the notes are not necessary.

Bureau of State Audits (BSA) Audit

As noted previously, the BSA audit was known to the Court and others due to the publicity, etc. This originated in early 2009 with the audit:

- Request letter sent to the Joint Legislative Audit Committee in May 2009;
- JLAC approval received in June 2009; and
- The Marin Court entrance meeting was held on August 10, 2009.

The audit is still in process and the testing phase is still to come at the Court.

September 2, 2009 Request by Kim Turner to AOC OGC re Destruction of Mediator Notes and other information.

This request was made in an email of Ms. Turner. In my interview of Ms. Turner, she stated that she did not consider this request in conjunction with the BSA audit but it concerned the volume of boxes stored by the Court contained mediator working files and notes dating back years. Additionally, this was part of her preparation of a court retention policy for non-deliberative and non-adjudicative records for the Court and as indicated in her emails, she considered the report and recommendations the key document.

September 23, 2009 Response from Ms. Connell of the AOC to Ms. Turner regarding destruction of mediator notes.

The email concerning this stated that there does not appear to be any statute or rule that “mandated a retention period for these documents.”

September 23, 2009 Direction by Ms. Turner to the Mediation Supervisor, Leo Terbieten, on the New Court Policy Concerning Retention of Mediator Working Files.

The direction given was to “discard mediator working files immediately after the report and recommendations are written.”

October 16, 2009 Cheri Brannon direction to stop “destroying” mediator working files.

According to Ms. Brannon, this was due to a call from Ms. Turner. According to Ms. Brannon, Ms. Turner stated in the call that the AOC OGC contacted her and told her that she should immediately cease the destruction due to the audit in process. It appears, from the interviews and discussion with various personnel, that the audit was not what initiated the request to OGC by Ms. Turner, or a consideration by OGC when the September 23, 2009, advice was given to her.

July 1 through 7, 2010 Emails of Ms. Kauffman Alleging Illegal Activities

VIII. APPENDICES

1. **Emails From Ms. Kauffman Containing Specific Allegations**
2. **Emails Of Marin Superior Court and AOC Office of General Counsel Regarding Retention Of Mediator Working Files**
3. **Relevant Statutes and Rules of Court**
4. **Marin Superior Court, Records Retention and Destruction Policy – Non-Deliberative and Non-Adjudicative Records (Adoption Date 11-19-2009)**

APPENDIX 1
Emails From Ms. Kauffman Containing Specific Allegations

NOTE: Transcripts referred to in the emails of Ms. Kauffman are not included in this appendix.

From: Barbara Kauffman [mailto:barbara@justicecalifornia.org]
Sent: Wednesday, July 07, 2010 6:14 PM
To: Holton, Lynn
Cc: George, Ronald; Dave Jones; Ellen Corbett; Feuer, Mike
Subject: RE: Illegal destruction of Marin County court records

The auditor has advised that this matter should not just be reported to the auditor's office, which has limited powers.

Apart from the criminal aspects of what has transpired, this is a judicial branch matter and Chief Justice Ron George has an obligation under Code of Judicial Ethics, Canon 3, subsection C(1) and (2) to act in a manner which promotes public confidence in the judiciary.

Having one of his Judicial Council appointees, and historically problematic CEO of an historically problematic court (and you have all been have been apprised of those problems for years), order and/or allow the destruction of court records in the middle of a legislative audit seems to be something Ron George and his Judicial Council must naturally be concerned about.

So Justice George, what are you doing about it? What is anyone in the judicial branch doing about it? What the auditor does about it has NOTHING to do with what the judicial branch is going to do about it, does it?

So let's get back to the facts. There is such a thing as a "mediation file" which is distinct from the court clerk's pleadings files. The mediation file contains all kinds of things-- pleadings copied to the mediators, information provided to the mediator by the parties, the mediator's notes of meetings and phone calls, and also notes of staff meetings about the case.

Braden testified that the mediation files -- not just the handwritten notes-- were destroyed. They existed, and then they were destroyed. Braden's associate said there was nothing left of the mediation file.

Is the judicial branch investigating this destruction of records? Is it finding out who ordered the destruction, who knew about it, who did it, and for what period it took place? Is it finding out why these documents were destroyed while an audit was ongoing? Is it finding out whether the destruction applied only to mediations that took place within a certain time frame, or whether the mediation files for older cases were also destroyed? Is it the branch's view that it was legal and acceptable to destroy these records while the audit was ongoing?

We are talking about purposeful destruction of court records relevant to the safety of children, and an ongoing state audit.

Is top leadership of the judicial branch doing anything about this? If not, why not?

Please let me know.

Thank you. Barbara Kauffman for JusticeCalifornia.

P.S. I will send this, and the transcripts, along to Judicial Council members Senator Corbett and Assemblyman Feuer as well.

From: Barbara Kauffman [mailto:barbara@justicecalifornia.org]
Sent: Monday, July 05, 2010 9:49 PM
To: Holton, Lynn
Cc: George, Ronald; Dave Jones
Subject: RE: Illegal destruction of Marin County court records

P.S. Respondeat Superior.

--- On Tue, 7/6/10, Barbara Kauffman <barbara@justicecalifornia.org> wrote:

From: Barbara Kauffman <barbara@justicecalifornia.org>
Subject: RE: Illegal destruction of Marin County court records
To: "LynnHolton" <Lynn.Holton@jud.ca.gov>
Cc: "RonaldGeorge" <Ronald.George@jud.ca.gov>, "Dave Jones" <Assemblymember.jones@assembly.ca.gov>
Date: Tuesday, July 6, 2010, 3:10 AM

I know, from personal trial experience, that you are 100% wrong.

Perhaps you didn't read the transcript from the Heierle and Assawasuksant case -- you know, where the child told the mediator that his dad hit him.

That trial took place in March and April, 2006-- the mediation took place and the report was issued in 2005. The notes were intact. We subpoenaed the 2005 mediation records for the 2006 trial, and got the notes about the dad hitting the child. Similarly, during the August 2007 Heierle/Assawasuksant trial, the mediator retrieved and referred to her April/May 2007 mediation notes. You, Justice George and Dave Jones ought to personally review this court file.

I have other case records as well, where the notes were intact after the report was issued. Test me. Ask me for another horrific high-profile example, and I will give it to you.

Someone is feeding you a line of garbage. Kim Turner, to be exact.

So my question remains-- what is Ron George, and what are the Judicial Council, the AOC, and the CA senate and assembly judiciary committees, going to do about her? We are talking about violations of state law, the destruction of court records (while an audit is going on), and the safety of children.

And, by the way, why isn't anyone concerned about the Braden transcript of this year, wherein she didn't know who had filed the motion about which she was making a recommendation, and she was completely unaware of the questions she had asked the parents?

Again, Lynn, we are talking about violations of state law, the destruction of court records, and the safety of children.

You should know me by now. I don't say anything I cannot back up by experience. Investigate a

little, and you will see why I am so vocal.

My goal is not to seek and destroy (although if that is what it takes, I will do it), my goal is a win-win-- it is to fix a very broken system, that affects a huge CA population.

I reiterate my original request in my original e-mail:

"I am requesting a prompt investigation and report regarding this matter. I am further requesting that Ms. Turner be immediately suspended from all official duties as a Judicial Council member and Marin Court Executive Officer if she was, or is suspected of being, in any way involved in unethical and/or criminal behavior. I trust you will immediately inquire about this."

Barbara

From: Barbara Kauffman [mailto:barbara@justicecalifornia.org]
Sent: Thursday, July 01, 2010 11:41 PM
To: George, Ronald; Holton, Lynn; Dave Jones
Subject: Illegal destruction of Marin County court records

Dear Justice George, and Ms. Holton, and Assemblymember Jones:

I am writing to report about and seek immediate investigation of the apparently felonious destruction of Marin County custody mediation files, reportedly at the order of Judicial Council member/ Marin Court Executive Officer, Kim Turner. I am requesting a prompt investigation and report regarding this matter. I am further requesting that Ms. Turner be immediately suspended from all official duties as a Judicial Council member and Marin Court Executive Officer if she was, or is suspected of being, in any way involved in unethical and/or criminal behavior. I trust you will immediately inquire about this.

Family Code Section 1819:

(a) Except as provided in subdivision (b), upon order of the judge of the family conciliation court, the supervising counselor of conciliation may destroy any record, paper, or document filed or kept in the office of the supervising counselor of conciliation which is more than two years old.

(b) Records described in subdivision (a) of child custody or visitation mediation may be destroyed when the minor or minors involved are 18 years of age.

Government Code 6200:

6200. Every officer having the custody of any record, map, or book, or of any paper or proceeding of any court, filed or deposited in

any public office, or placed in his or her hands for any purpose, is punishable by imprisonment in the state prison for two, three, or four years if, as to the whole or any part of the record, map, book, paper, or proceeding, the officer willfully does or permits any other person to do any of the following:

- (a) Steal, remove, or secrete.
- (b) Destroy, mutilate, or deface.
- (c) Alter or falsify.

Sworn 2010 testimony of Marin Family Court Services mediator Meredith Braden (in a case involving a young child):

"Q. Okay. Well, generally do you have a file for each mediation case?

A. It's a little complicated. We do keep files currently, but at one point the directive was that we were no longer keeping files. They were all destroyed.

Q. They were all destroyed?

A. Yes.

Q. Can you tell me who directed you to do that?

A. It was Kim Turner, to the best of my knowledge, yes.

Q. What do you mean by to the best of your knowledge?

A. I mean, we were told, through our supervisor at the time, that that was the policy from above him.

Q. Who was your supervisor?

A. Leo Terbieten. But he has since retired.

Q. When did he retire?

A. At the end of 2009.

Q. End of December?

A. Yes.

Q. Okay. So between the period of September 21st, when you interviewed these parties, and the end of December, then were you instructed to throw away your files?

A. You know, I don't remember the exact dates. There were — all of the files were destroyed at some point in the Fall. Obviously it was after September 21st. And then the policy was reversed at some point, also in the Fall, prior to December,

but I couldn't tell you exactly when. And so since that time we've been maintaining the files again."

Attached hereto please find an excerpt of the testimony of Marin Family Court Services mediator Gloria Wu, illustrating the type of information contained in mediation records that were reportedly destroyed.

Also attached hereto is the relevant excerpt of the Meredith Braden testimony describing the destruction of Marin family court records relevant to the pending legislative audit of the Marin court, reportedly at Kim Turner's direction. Braden's testimony also illustrates the impact of the destruction of records on her ability to recall and testify about matters relevant to her drastic recommendations that a very young female child be taken from the custody of her primary caretaker mother (who was not accused of any wrongdoing), and placed in the custody of father and his many male housemates, if the mother chose to move. I suggest that you order the full transcript of the Braden testimony, who was unable to even remember who had filed the motion regarding which she was making a recommendation.

Having transmitted this information to the highest level of the CA judicial branch, and Dave Jones, I assume and request that appropriate steps will be taken to investigate, report about, and remedy the actions described in Braden's testimony. Certainly, you are on notice of and responsible for that information as it relates to responsible oversight of the behavior of Kim Turner and Marin Family Court Services, the safety of Marin's children and families, the integrity of the legislative audit, and the public trust and confidence in the Marin Court and the Judicial Council.

In support of truth and justice,

Barbara Kauffman for JusticeCalifornia

APPENDIX 2

Emails Of Marin Superior Court and AOC Office of General Counsel Regarding Retention Of Mediator Working Files

1. Email on Sept. 23, 2009 Providing Opinion
2. Email on Sept. 23, 2009 Concerning Court Policy on Retention of Mediator Working Files
3. Email String on October 16, 2009 Directing the Stopping of Destruction of Mediator Files

1. Email on Sept. 23, 2009 Providing Opinion

From: Connell, Mikayla [mailto:mikayla.connell@jud.ca.gov]
Sent: Wednesday, September 23, 2009 3:50 PM
To: Turner, Kim
Subject: RE: Family mediator working files

Hi Kim,

From the information below and from what we discussed in our telephone call I do not foresee any problems with your decision to discard the family mediator notes immediately. These documents do not appear to fit the definition of a "court record" under either the statutes or the rules, and thus there is no statutory or rule mandated retention period for these documents that I am aware of. I hope this helps!

Mikayla S. Connell
Attorney
Legal Opinions Unit
Judicial Council of California - Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102-3688
415-865-8021, Fax 415-865-7664
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www.courtinfo.ca.gov

"Serving the courts for the benefit of all Californians"

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2. Email String on Sept. 23, 2009 Concerning Court Policy on Retention of Mediator Working Files

From: Turner, Kim
Sent: Wednesday, September 23, 2009 4:00 PM
To: Terbieten, Leo
Cc: Adams, Verna; Brannon, Cheri
Subject: FW: Family mediator working files

Leo,

Here is the answer from OGC regarding our plan to discard mediator working files immediately after the report and recommendations are written. Please have Ed and the mediators implement this practice right away.

Thanks,

Kim

Kim Turner
Executive Officer
Marin County Superior Court
(415) 473-6237
kim_turner@marincourt.org

3. Email String on October 16, 2009 Directing the Stopping of Destruction of Mediator Files

From: Ramazzini, Ed
Sent: Friday, October 16, 2009 10:57 AM
To: Brannon, Cheri
Subject: Mediation Files

No destroying of files until further notice, correct?

Thanks.

Ed Ramazzini
Family Court Services
Phone: (415) 473-7187
Fax: (415) 473-3715
Email: ed_ramazzini@marincourt.org

From: Brannon, Cheri
Sent: Friday, October 16, 2009 10:58 AM
To: Ramazzini, Ed
Subject: RE: Mediation Files

That is correct.

Thanks
Cheri

APPENDIX 3
RELEVANT STATUTES AND RULES OF COURT

1. Code of Civil Procedure section 1904 – Court Records
2. Family Code section 1810 through 1820 – Family Conciliation Court
3. Government Code section 6200 through 6203- Improper Destruction of Records
4. Family Code section 3160 through 3165 – Mediators
5. California Rules of Court 10.855 – Trial Court Records Management
6. California Rules of Court – Rule 2.502 – Public Access to Electronic Trial Court Records
7. California Rules of Court - Rule 5.210 – Court-connected custody mediation
8. California Rules of Court 10.610 – Court Executive Duties
9. Government Code section 68150-68153 - Trial Court Records Retention

1. Code of Civil Procedure section 1904 - Court Records

1904. A judicial record is the record or official entry of the proceedings in a Court of justice, or of the official act of a judicial officer, in an action or special proceeding.

2. Family Code section 1810 through 1820 - Family Conciliation Court

CALIFORNIA CODES FAMILY CODE SECTION 1810-1820

1810. Each superior court shall exercise the jurisdiction conferred by this part. While sitting in the exercise of this jurisdiction, the court shall be known and referred to as the "family conciliation court."

1811. The presiding judge of the superior court shall annually, in the month of January, designate at least one judge to hear all cases under this part.

1812. (a) The judge of the family conciliation court may transfer any case before the family conciliation court pursuant to this part to the department of the presiding judge of the superior court for assignment for trial or other proceedings by another judge of the court, whenever in the opinion of the judge of the family conciliation court the transfer is necessary to expedite the business of the family conciliation court or to ensure the prompt consideration of the case.

(b) When a case is transferred pursuant to subdivision (a), the judge to whom it is transferred shall act as the judge of the family conciliation court in the matter.

1813. (a) The presiding judge of the superior court may appoint a judge of the superior court other than the judge of the family conciliation court to act as judge of the family conciliation court during any period when the judge of the family conciliation court is on vacation, absent, or for any reason unable to perform the duties as judge of the family conciliation court.

(b) The judge appointed under subdivision (a) has all of the powers and authority of a judge of the family conciliation court in cases under this part.

1814. (a) In each county in which a family conciliation court is established, the superior court may appoint one supervising counselor of conciliation and one secretary to assist the family conciliation court in disposing of its business and carrying out its functions. In counties which have by contract established joint family conciliation court services, the superior courts in contracting counties jointly may make the appointments under this subdivision.

(b) The supervising counselor of conciliation has the power to do all of the following:

(1) Hold conciliation conferences with parties to, and hearings in, proceedings under this part, and make recommendations concerning the proceedings to the judge of the **family** conciliation court.

(2) Provide supervision in connection with the exercise of the counselor's jurisdiction as the judge of the **family** conciliation court may direct.

(3) Cause reports to be made, statistics to be compiled, and records to be kept as the judge of the **family** conciliation court may direct.

(4) Hold hearings in all **family** conciliation court cases as may be required by the judge of the **family** conciliation court, and make investigations as may be required by the court to carry out the intent of this part.

(5) Make recommendations relating to marriages where one or both parties are underage.

(6) Make investigations, reports, and recommendations as provided in Section 281 of the Welfare and Institutions Code under the authority provided the probation officer in that code.

(7) Act as domestic relations cases investigator.

(8) Conduct mediation of child custody and visitation disputes.

(c) The superior court, or contracting superior courts, may also appoint, with the consent of the board of supervisors, associate counselors of conciliation and other office assistants as may be necessary to assist the **family** conciliation court in disposing of its business. The associate counselors shall carry out their duties under the supervision of the supervising counselor of conciliation and have the powers of the supervising counselor of conciliation. Office assistants shall work under the supervision and direction of the supervising counselor of conciliation.

(d) The classification and salaries of persons appointed under this section shall be determined by:

(1) The board of supervisors of the county in which a noncontracting **family** conciliation court operates.

(2) The board of supervisors of the county which by contract has the responsibility to administer funds of the joint **family** conciliation court service.

1815. (a) A person employed as a supervising counselor of conciliation or as an associate counselor of conciliation shall have all of the following minimum qualifications:

(1) A master's degree in psychology, social work, marriage, **family** and child counseling, or other behavioral science substantially related to marriage and **family** interpersonal relationships.

(2) At least two years of experience in counseling or psychotherapy, or both, preferably in a setting related to the areas of responsibility of the **family** conciliation court and with the ethnic population to be served.

(3) Knowledge of the court system of California and the procedures used in **family** law cases.

(4) Knowledge of other resources in the community that clients can be referred to for assistance.

(5) Knowledge of adult psychopathology and the psychology of families.

(6) Knowledge of child development, child abuse, clinical issues relating to children, the effects of divorce on children, the effects of domestic violence on children, and child custody research sufficient to enable a counselor to assess the mental health needs of children.

(7) Training in domestic violence issues as described in Section 1816.

(b) The **family** conciliation court may substitute additional experience for a portion of the education, or additional education for a portion of the experience, required under subdivision (a).

(c) This section does not apply to any supervising counselor of conciliation who was in office on March 27, 1980.

1816. (a) For purposes of this section, the following definitions apply:

(1) "Eligible provider" means the Administrative Office of the Courts or an educational institution, professional association, professional continuing education group, a group connected to the courts, or a public or private group that has been authorized by the Administrative Office of the Courts to provide domestic violence training.

(2) "Evaluator" means a supervising or associate counselor described in Section 1815, a mediator described in Section 3164, a court-connected or private child custody evaluator described in Section 3110.5, or a court-appointed investigator or evaluator as described in Section 3110 or Section 730 of the Evidence Code.

(b) An evaluator shall participate in a program of continuing instruction in domestic violence, including child abuse, as may be arranged and provided to that evaluator. This training may utilize domestic violence training programs conducted by nonprofit community organizations with an expertise in domestic violence issues.

(c) Areas of basic instruction shall include, but are not limited to, the following:

- (1) The effects of domestic violence on children.
- (2) The nature and extent of domestic violence.
- (3) The social and **family** dynamics of domestic violence.
- (4) Techniques for identifying and assisting families affected by domestic violence.
- (5) Interviewing, documentation of, and appropriate recommendations for families affected by domestic violence.

(6) The legal rights of, and remedies available to, victims.

(7) Availability of community and legal domestic violence resources.

(d) An evaluator shall also complete 16 hours of advanced training within a 12-month period. Four hours of that advanced training shall include community resource networking intended to acquaint the evaluator with domestic violence resources in the geographical communities where the **family** being evaluated may reside. Twelve hours of instruction, as approved by the Administrative Office of the Courts, shall include all of the following:

(1) The appropriate structuring of the child custody evaluation process, including, but not limited to, all of the following:

(A) Maximizing safety for clients, evaluators, and court personnel.

(B) Maintaining objectivity.

(C) Providing and gathering balanced information from the parties and controlling for bias.

(D) Providing separate sessions at separate times as described in Section 3113.

(E) Considering the impact of the evaluation report and recommendations with particular attention to the dynamics of domestic violence.

(2) The relevant sections of local, state, and federal laws, rules, or regulations.

(3) The range, availability, and applicability of domestic violence resources available to victims, including, but not limited to, all of the following:

(A) Shelters for battered women.

(B) Counseling, including drug and alcohol counseling.

(C) Legal assistance.

(D) Job training.

(E) Parenting classes.

(F) Resources for a victim who is an immigrant.

(4) The range, availability, and applicability of domestic violence intervention available to perpetrators, including, but not limited to, all of the following:

(A) Certified treatment programs described in Section 1203.097 of the Penal Code.

(B) Drug and alcohol counseling.

(C) Legal assistance.

- (D) Job training.
- (E) Parenting classes.
- (5) The unique issues in a **family** and psychological assessment in a domestic violence case, including all of the following:
 - (A) The effects of exposure to domestic violence and psychological trauma on children, the relationship between child physical abuse, child sexual abuse, and domestic violence, the differential **family** dynamics related to parent-child attachments in families with domestic violence, intergenerational transmission of familial violence, and manifestations of post-traumatic stress disorders in children.
 - (B) The nature and extent of domestic violence, and the relationship of gender, class, race, culture, and sexual orientation to domestic violence.
 - (C) Current legal, psychosocial, public policy, and mental health research related to the dynamics of **family** violence, the impact of victimization, the psychology of perpetration, and the dynamics of power and control in battering relationships.
 - (D) The assessment of **family** history based on the type, severity, and frequency of violence.
 - (E) The impact on parenting abilities of being a victim or perpetrator of domestic violence.
 - (F) The uses and limitations of psychological testing and psychiatric diagnosis in assessing parenting abilities in domestic violence cases.
 - (G) The influence of alcohol and drug use and abuse on the incidence of domestic violence.
 - (H) Understanding the dynamics of high conflict relationships and relationships between an abuser and victim.
 - (I) The importance of and procedures for obtaining collateral information from a probation department, children's protective services, police incident report, a pleading regarding a restraining order, medical records, a school, and other relevant sources.
 - (J) Accepted methods for structuring safe and enforceable child custody and parenting plans that ensure the health, safety, welfare, and best interest of the child, and safeguards for the parties.
 - (K) The importance of discouraging participants in child custody matters from blaming victims of domestic violence for the violence and from minimizing allegations of domestic violence, child abuse, or abuse against a **family** member.
 - (e) After an evaluator has completed the advanced training described in subdivision (d), that evaluator shall complete four hours of updated training annually that shall include, but is not limited to, all of the following:
 - (1) Changes in local court practices, case law, and state and federal legislation related to domestic violence.
 - (2) An update of current social science research and theory, including the impact of exposure to domestic violence on children.
 - (f) Training described in this section shall be acquired from an eligible provider and that eligible provider shall comply with all of the following:
 - (1) Ensure that a training instructor or consultant delivering the education and training programs either meets the training requirements of this section or is an expert in the subject matter.
 - (2) Monitor and evaluate the quality of courses, curricula, training, instructors, and consultants.
 - (3) Emphasize the importance of focusing child custody evaluations on the health, safety, welfare, and best interest of the child.
 - (4) Develop a procedure to verify that an evaluator completes the education and training program.
 - (5) Distribute a certificate of completion to each evaluator who has completed the training. That certificate shall document the number of hours of training offered, the number of hours the evaluator completed, the dates of the training, and the name of the training provider.

(g) (1) If there is a local court rule regarding the procedure to notify the court that an evaluator has completed training as described in this section, the evaluator shall comply with that local court rule.

(2) Except as provided in paragraph (1), an evaluator shall attach copies of his or her certificates of completion of the training described in subdivision (d) and the most recent updated training described in subdivision (e).

(h) An evaluator may satisfy the requirement for 12 hours of instruction described in subdivision (d) by training from an eligible provider that was obtained on or after January 1, 1996. The advanced training of that evaluator shall not be complete until that evaluator completes the four hours of community resource networking described in subdivision (d).

(i) The Judicial Council shall develop standards for the training programs. The Judicial Council shall solicit the assistance of community organizations concerned with domestic violence and child abuse and shall seek to develop training programs that will maximize coordination between conciliation courts and local agencies concerned with domestic violence.

1817. The probation officer in every county shall do all of the following:

(a) Give assistance to the **family** conciliation court that the court may request to carry out the purposes of this part, and to that end shall, upon request, make investigations and reports as requested.

(b) In cases pursuant to this part, exercise all the powers and perform all the duties granted or imposed by the laws of this state relating to probation or to probation officers.

1818. (a) All superior court hearings or conferences in proceedings under this part shall be held in private and the court shall exclude all persons except the officers of the court, the parties, their counsel, and witnesses. The court shall not allow ex parte communications, except as authorized by Section 216. All communications, verbal or written, from parties to the judge, commissioner, or counselor in a proceeding under this part shall be deemed to be official information within the meaning of Section 1040 of the Evidence Code.

(b) The files of the **family** conciliation court shall be closed. The petition, supporting affidavit, conciliation agreement, and any court order made in the matter may be opened to inspection by a party or the party's counsel upon the written authority of the judge of the **family** conciliation court.

1819. (a) Except as provided in subdivision (b), upon order of the judge of the **family** conciliation court, the supervising counselor of conciliation may destroy any record, paper, or document filed or kept in the office of the supervising counselor of conciliation which is more than two years old.

(b) Records described in subdivision (a) of child custody or visitation mediation may be destroyed when the minor or minors involved are 18 years of age.

(c) In the judge's discretion, the judge of the **family** conciliation court may order the microfilming of any record, paper, or document described in subdivision (a) or (b).

1820. (a) A county may contract with any other county or counties to provide joint **family** conciliation court services.

(b) An agreement between two or more counties for the operation of a joint **family** conciliation court service may provide that the treasurer of one participating county shall be the custodian of moneys made available for the purposes of the joint services, and that the treasurer may make payments from the moneys upon audit of the appropriate auditing officer or body of the county of that treasurer.

(c) An agreement between two or more counties for the operation of a joint **family** conciliation court service may also provide:

(1) For the joint provision or operation of services and facilities or for the provision or operation of services and facilities by one participating county under contract for the other participating counties.

(2) For appointments of members of the staff of the **family** conciliation court including the supervising counselor.

(3) That, for specified purposes, the members of the staff of the **family** conciliation court including the supervising counselor, but excluding the judges of the **family** conciliation court and other court personnel, shall be considered to be employees of one participating county.

(4) For other matters that are necessary or proper to effectuate the purposes of the **Family** Conciliation Court Law.

(d) The provisions of this part relating to **family** conciliation court services provided by a single county shall be equally applicable to counties which contract, pursuant to this section, to provide joint **family** conciliation court services.

3. Government Code Section 6200 through 6203 – Improper Destruction of Records

6200. Every officer having the custody of any record, map, or book, or of any paper or proceeding of any court, filed or deposited in any public office, or placed in his or her hands for any purpose, is punishable by imprisonment in the state prison for two, three, or four years if, as to the whole or any part of the record, map, book, paper, or proceeding, the officer willfully does or permits any other person to do any of the following:

- (a) Steal, remove, or secrete.
- (b) Destroy, mutilate, or deface.
- (c) Alter or falsify.

6201. Every person not an officer referred to in Section 6200, who is guilty of any of the acts specified in that section, is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both such fine and imprisonment.

6203. (a) Every officer authorized by law to make or give any certificate or other writing is guilty of a misdemeanor if he or she makes and delivers as true any certificate or writing containing statements which he or she knows to be false.

(b) Notwithstanding any other limitation of time described in Section 802 of the Penal Code, or any other provision of law, prosecution for a violation of this offense shall be commenced within four years after discovery of the commission of the offense, or within four years after the completion of the offense, whichever is later.

(c) The penalty provided by this section is not an exclusive remedy, and does not affect any other relief or remedy provided by law.

4. Family Code Section 3160 through 3165 – Mediators

3160. Each superior court shall make a mediator available. The court is not required to institute a **family** conciliation court in order to provide mediation services.

3161. The purposes of a mediation proceeding are as follows:

- (a) To reduce acrimony that may exist between the parties.
- (b) To develop an agreement assuring the child close and continuing contact with both parents that is in the best interest of the child, consistent with Sections 3011 and 3020.

(c) To effect a settlement of the issue of visitation rights of all parties that is in the best interest of the child.

3162. (a) Mediation of cases involving custody and visitation concerning children shall be governed by uniform standards of practice adopted by the Judicial Council.

(b) The standards of practice shall include, but not be limited to, all of the following:

(1) Provision for the best interest of the child and the safeguarding of the rights of the child to frequent and continuing contact with both parents, consistent with Sections 3011 and 3020.

(2) Facilitation of the transition of the **family** by detailing factors to be considered in decisions concerning the child's future.

(3) The conducting of negotiations in such a way as to equalize power relationships between the parties.

(c) In adopting the standards of practice, the Judicial Council shall consider standards developed by recognized associations of mediators and attorneys and other relevant standards governing mediation of proceedings for the dissolution of marriage.

(d) The Judicial Council shall offer training with respect to the standards to mediators.

3163. Courts shall develop local rules to respond to requests for a change of mediators or to general problems relating to mediation.

3164. (a) The mediator may be a member of the professional staff of a **family** conciliation court, probation department, or mental health services agency, or may be any other person or agency designated by the court.

(b) The mediator shall meet the minimum qualifications required of a counselor of conciliation as provided in Section 1815.

3165. Any person, regardless of administrative title, hired on or after January 1, 1998, who is responsible for clinical supervision of evaluators, investigators, or mediators or who directly supervises or administers the **Family** Court Services evaluation or mediation programs shall meet the same continuing education requirements specified in Section 1816 for supervising and associate counselors of conciliation.

5. California Rules of Court 10.855 – Trial Court Records Management

Title 10 – Judicial Administration Rules

Division 4 – Trial Court Administration

Chapter 10 – Trial Court Records Management

Rule 10.855 – Superior court records sampling program

(e) Court record defined

The “court record” under this rule consists of the following:

- (1) All papers and documents in the case folder; but if no case folder is created by the court, all papers and documents that would have been in the case folder if one had been created;
- (2) The case folder, unless all information on the case folder is in papers and documents preserved in a medium described in (h); and
- (3) If available, corresponding depositions, paper exhibits, daily transcripts, and tapes of electronically recorded proceedings.

4. California Rules of Court – Rule 2.502 – Public Access to Electronic Trial Court Records

Title 2 – Trial Court Rules

Division 4 – Court Records

Chapter 2 – Public Access to Electronic Trial Court Records

Rule 2.502 Definitions

As used in this chapter, the following definitions apply:

- (1) **“Court record”** is any document, paper, or exhibit filed by the parties to an action or proceeding; any order to judgment of the court; and any item listed in Government Code section 68151(a), excluding any reporter’s transcript for which the reporter is entitled to receive a fee for any copy. **The term does not include the personal notes or preliminary memoranda of judges or other judicial branch personnel.**

5. California Rules of Court - Rule 5.210 – Court-connected custody mediation

Title 5 – Family and Juvenile Rules

Division 1 – Family Rules

Chapter 5 – Child Custody

Rule 5.210 – Court-connected custody mediation

(d) Responsibility for mediation services

(1) Each court must ensure that:

(F) **Mediation services protect, in accordance with existing law, party confidentiality in:**

(i) **Storage and disposal of records and any personal information accumulated during the mediation process;**

(e) **Mediation process.** All court-connected mediation processes must be conducted in accordance with state law and include:

(8) **Conclusion of mediation with:**

(A) A written parenting plan summarizing the parties’ agreement or mediator’s recommendation that is given to counsel or the parties before the recommendation is presented to the court;

6. California Rules of Court 10.610 – Court Executive Duties

Rule 10.610. Duties of court executive officer

c) Duties

Under the direction of the presiding judge and consistent with the law and rules of court, the court executive officer must perform the following duties, where they are not inconsistent with the authorized duties of the clerk of the court:

(8) *Records*

Create and manage uniform record-keeping systems, collecting data on pending and completed judicial business and the internal operation of the court, as required by the court and the Judicial Council.

9. Government Code section 68150-68153 - Trial Court Records Retention

68150. (a) Trial court records may be preserved in any form of communication or representation, including optical, electronic, magnetic, micrographic, or photographic media or other technology capable of accurately producing or reproducing the original record according to minimum standards or guidelines for the preservation and reproduction of the medium adopted by the American National

Standards Institute or the Association for Information and Image Management.

Specifications for electronic recordings made as the official record of the oral proceedings shall be governed by the California Rules of Court.

(b) No additions, deletions, or changes shall be made to the content of the record. The records shall be indexed for convenient access.

(c) A copy of the record preserved or reproduced according to subdivisions (a) and (b) shall be deemed the original court record and may be certified as a correct copy of the original record.

(d) A court record preserved or reproduced in accordance with subdivisions (a) and (b) shall be stored in a manner and in a place that reasonably assures its preservation against loss, theft, defacement, or destruction for the prescribed retention period under Section 68152. Electronic recordings made as the official record of the oral proceedings shall not require a backup copy unless otherwise specified in the California Rules of Court.

(e) The court record that was reproduced in accordance with subdivisions (a) and (b) may be disposed of in accordance with the procedure under Section 68153, unless it is subject to subdivision(f).

(f) The following court records may be preserved or reproduced under subdivisions (a) and (b) but shall also be preserved on paper, microfilm, or in another form of communication or representation approved by and in accordance with standards that are defined as archival by the American National Standards Institute for the duration of the record's retention period:

(1) The comprehensive historical and sample superior court records preserved for research under the California Rules of Court.

(2) Court records that are preserved permanently.

Court records that must be preserved longer than 10 years but not permanently may be reproduced on media other than paper or microfilm using technology authorized under subdivisions (a) and (b). However the records shall be reproduced before the expiration of their estimated lifespan for the medium in which they are stored as specified in subdivision (g).

(g) Instructions for access to data stored on a medium other than paper shall be documented. Each court shall conduct a periodic review of the media in which the court records are stored to assure that the storage medium is not obsolete and that current technology is capable of accessing and reproducing the records. The court shall reproduce records before the expiration of their estimated lifespan for the medium in which they are stored according to minimum standards and guidelines for the preservation and reproduction of the medium adopted by the American National Standards Institute or the Association for Information and Image Management.

(h) Court records preserved or reproduced under subdivisions (a) and (b) shall be made reasonably accessible to all members of the public for viewing and duplication as would the paper records. Reasonable provision shall be made for duplicating the records at cost. Cost shall consist of all costs associated with duplicating the records as determined by the court.

68151. The following definitions apply to this chapter:

(a) "Court record" shall consist of the following:

(1) All filed papers and documents in the case folder, but if no case folder is created by the court, all filed papers and documents that would have been in the case folder if one had been created.

(2) Administrative records filed in an action or proceeding, depositions, paper exhibits, transcripts, including preliminary hearing transcripts, and recordings of electronically recorded proceedings filed, lodged, or maintained in connection with the case, unless disposed of earlier in the case pursuant to law.

(3) Other records listed under subdivision (j) of Section 68152.

(b) "Notice of destruction and no transfer" means that the clerk has given notice of destruction of the superior court records open to public inspection, and that there is no request and order for transfer of the records as provided in the California Rules of Court.

(c) "Final disposition of the case" means that an acquittal, dismissal, or order of judgment has been entered in the case or proceeding, the judgment has become final, and no postjudgment motions or appeals are pending in the case or for the reviewing court upon the mailing of notice of the issuance of the remittitur.

In a criminal prosecution, the order of judgment shall mean imposition of sentence, entry of an appealable order (including, but not limited to, an order granting probation, commitment of a defendant for insanity, or commitment of a defendant as a narcotics addict appealable under Section 1237 of the Penal Code), or forfeiture of bail without issuance of a bench warrant or calendaring of other proceedings.

(d) "Retain permanently" means that the original court records shall never be transferred or destroyed.

68152. The trial court clerk may destroy court records under Section 68153 after notice of destruction and if there is no request and order for transfer of the records, except the comprehensive historical and sample superior court records preserved for research under the California Rules of Court, when the following times have expired after final disposition of the case in the categories listed:

- (a) Adoption: retain permanently.
- (b) Change of name: retain permanently.
- (c) Other civil actions and proceedings, as follows:
 - (1) Except as otherwise specified: 10 years.
 - (2) Where a party appears by a guardian ad litem: 10 years after termination of the court's jurisdiction.
 - (3) Domestic violence: same period as duration of the restraining or other orders and renewals, then retain the restraining or other orders as a judgment; 60 days after expiration of the temporary protective or temporary restraining order.
 - (4) Eminent domain: retain permanently.
 - (5) Family law, except as otherwise specified: 30 years.
 - (6) Harassment: same period as duration of the injunction and renewals, then retain the injunction as a judgment; 60 days after expiration of the temporary restraining order.
 - (7) Mental health (Lanterman Developmental Disabilities Services Act and Lanterman-Petris-Short Act): 30 years.
 - (8) Paternity: retain permanently.
 - (9) Petition, except as otherwise specified: 10 years.
 - (10) Real property other than unlawful detainer: retain permanently if the action affects title or an interest in real property.
 - (11) Small claims: 10 years.
 - (12) Unlawful detainer: one year if judgment is for possession of the premises; 10 years if judgment is for money.
- (d) Notwithstanding subdivision (c), any civil or small claims case in the trial court:
 - (1) Involuntarily dismissed by the court for delay in prosecution or failure to comply with state or local rules: one year.
 - (2) Voluntarily dismissed by a party without entry of judgment: one year.Notation of the dismissal shall be made on the civil index of cases or on a separate dismissal index.
- (e) Criminal.
 - (1) Capital felony (murder with special circumstances where the prosecution seeks the death penalty): retain permanently. If the charge is disposed of by acquittal or a sentence less than death, the case shall be reclassified.

- (2) Felony, except as otherwise specified: 75 years.
- (3) Felony, except capital felony, with court records from the initial complaint through the preliminary hearing or plea and for which the case file does not include final sentencing or other final disposition of the case because the case was bound over to the superior court: five years.
- (4) Misdemeanor, except as otherwise specified: five years.
- (5) Misdemeanor alleging a violation of the Vehicle Code, except as otherwise specified: three years.
- (6) Misdemeanor alleging a violation of Section 23103, 23152, or 23153 of the Vehicle Code: 10 years.
- (7) Misdemeanor alleging a violation of Section 14601, 14601.1, 20002, 23104, 23105, 23109, or 23109.1 of the Vehicle Code: five years.
- (8) Misdemeanor alleging a marijuana violation under subdivision (b), (c), (d), or (e) of Section 11357 of the Health and Safety Code, or subdivision (b) of Section 11360 of the Health and Safety Code in accordance with the procedure set forth in Section 11361.5 of the Health and Safety Code: records shall be destroyed two years from the date of conviction or from the date of arrest if no conviction.
- (9) Misdemeanor, infraction, or civil action alleging a violation of the regulation and licensing of dogs under Sections 30951 to 30956, inclusive, of the Food and Agricultural Code or violation of any other local ordinance: three years.
- (10) Misdemeanor action resulting in a requirement that the defendant register as a sex offender pursuant to Section 290 of the Penal Code: 75 years. This paragraph shall apply to records relating to a person convicted on or after September 20, 2006.
- (11) Infraction, except as otherwise specified: three years.
- (12) Parking infractions, including alleged violations under the stopping, standing, and parking provisions set forth in Chapter 9 (commencing with Section 22500) of Division 11 of the Vehicle Code: two years.
 - (f) Habeas corpus: same period as period for retention of the records in the underlying case category.
 - (g) Juvenile.
 - (1) Dependent (Section 300 of the Welfare and Institutions Code): upon reaching age 28 or on written request shall be released to the juvenile five years after jurisdiction over the person has terminated under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be destroyed upon court order five years after the records have been sealed pursuant to subdivision (c) of Section 389 of the Welfare and Institutions Code.
 - (2) Ward (Section 601 of the Welfare and Institutions Code): upon reaching age 21 or on written request shall be released to the juvenile five years after jurisdiction over the person has terminated under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be destroyed upon court order five years after the records have been sealed under subdivision (d) of Section 781 of the Welfare and Institutions Code.
 - (3) Ward (Section 602 of the Welfare and Institutions Code): upon reaching age 38 under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be destroyed upon court order when the subject of the record reaches the age of 38 under subdivision (d) of Section 781 of the Welfare and Institutions Code.
 - (4) Traffic and some nontraffic misdemeanors and infractions (Section 601 of the Welfare and Institutions Code): upon reaching age 21 or five years after jurisdiction over the person has terminated under subdivision (c) of Section 826 of the Welfare and Institutions Code. May be microfilmed or photocopied.
 - (5) Marijuana misdemeanor under subdivision (e) of Section 11357 of the Health and Safety Code in accordance with procedures specified in subdivision (a) of Section 11361.5 of the Health and Safety Code: upon reaching age 18 the records shall be destroyed.
 - (h) Probate.
 - (1) Conservatorship: 10 years after decree of termination.

- (2) Guardianship: 10 years after the age of 18.
- (3) Probate, including probated wills, except as otherwise specified: retain permanently.
 - (i) Court records of the appellate division of the superior court: five years.
 - (j) Other records.
 - (1) Applications in forma pauper is: any time after the disposition of the underlying case.
 - (2) Arrest warrant: same period as period for retention of the records in the underlying case category.
 - (3) Bench warrant: same period as period for retention of the records in the underlying case category.
 - (4) Bond: three years after exoneration and release.
 - (5) Coroner's inquest report: same period as period for retention of the records in the underlying case category; if no case, then permanent.
 - (6) Court orders not associated with an underlying case, such as orders for destruction of court records for telephone taps, or to destroy drugs, and other miscellaneous court orders: three years.
 - (7) Court reporter notes: 10 years after the notes have been taken in criminal and juvenile proceedings and five years after the notes have been taken in all other proceedings, except notes reporting proceedings in capital felony cases (murder with special circumstances where the prosecution seeks the death penalty and the sentence is death), including notes reporting the preliminary hearing, which shall be retained permanently, unless the Supreme Court on request of the court clerk authorizes the destruction.
 - (8) Electronic recordings made as the official record of the oral proceedings under the California Rules of Court: any time after final disposition of the case in infraction and misdemeanor proceedings, 10 years in all other criminal proceedings, and five years in all other proceedings.
 - (9) Electronic recordings not made as the official record of the oral proceedings under the California Rules of Court: any time either before or after final disposition of the case.
 - (10) Index, except as otherwise specified: retain permanently.
 - (11) Index for cases alleging traffic violations: same period as period for retention of the records in the underlying case category.
 - (12) Judgments within the jurisdiction of the superior court other than in a limited civil case, misdemeanor case, or infraction case: retain permanently.
 - (13) Judgments in misdemeanor cases, infraction cases, and limited civil cases: same period as period for retention of the records in the underlying case category.
 - (14) Minutes: same period as period for retention of the records in the underlying case category.
 - (15) Naturalization index: retain permanently.
 - (16) Ninety-day evaluation (under Section 1203.03 of the Penal Code): same period as period for retention of the records in the underlying case category, or period for completion or termination of probation, whichever is longer.
 - (17) Register of actions or docket: same period as period for retention of the records in the underlying case category, but in no event less than 10 years for civil and small claims cases.
 - (18) Search warrant: 10 years, except search warrants issued in connection with a capital felony case defined in paragraph (7), which shall be retained permanently.
- (k) Retention of the court records under this section shall be extended as follows:
 - (1) By order of the court on its own motion, or on application of a party or an interested member of the public for good cause shown and on those terms as are just. A fee shall not be charged for making the application.
 - (2) Upon application and order for renewal of the judgment to the extended time for enforcing the judgment.

68153. Upon order of the presiding judge of the court, court records open to public inspection and not ordered transferred under the procedures in the California Rules of Court, confidential records, and sealed records that are ready for destruction under Section 68152 may be destroyed. Destruction shall be by shredding, burial, burning, erasure, obliteration, recycling, or other method approved by the court, except confidential and sealed records, which shall not be buried or recycled unless the text of the records is first obliterated.

Notation of the date of destruction shall be made on the index of cases or on a separate destruction index. A list of the court records destroyed within the jurisdiction of the superior court shall be provided to the Judicial Council in accordance with the California Rules of Court.

APPENDIX 4
Marin Superior Court
Records Retention and Destruction Policy – Non-Deliberative and Non-Adjudicative
Records (Adoption Date 11-19-2009)

**Marin County Superior Court
Records Retention and Destruction Policy
Non-Deliberative and Non-Adjudicative Records**

I. Statement of Policy

The Marin County Superior Court is committed to ensuring public access to non-deliberative and non-adjudicative court records, budget and management information. Moreover, the Court is dedicated to full and accountable stewardship of public resources. It is the Court's policy to retain non-deliberative and non-adjudicative records in accordance with all statutory requirements. Where no statutory requirements exist, records will be retained in accordance with industry standards and best business practices. This policy provides guidelines for the retention and destruction of all records not described under Government Code section 68150 et seq. and California Rules of Court 10.851, 10.855 and 10.856.

II. Purpose

The purpose of this policy is to ensure that the Court's non-deliberative and non-adjudicative paper, audio, video, film and electronic records are adequately protected and maintained for Court use and inspection by the public. Attached to this policy as appendices are proposed records retention schedules in judicial administrative subject matter areas. The Court will manage, retain and destroy records in accordance with guidance provided in these appendices.

This policy will provide direction to court employees regarding the management of electronic documents - including e-mail, web files, text files, sound and movie files, PDF documents, and all Microsoft Office or other formatted files. Email records will be governed by the policy contained in Appendix 1. All other electronic records shall comply with the management, retention and destruction policies adopted for paper records.

III. Statutory Authority

This policy provides a central and complete authority that incorporates the following individual laws and regulations:

1. California Labor, Unemployment and Insurance Codes
2. ADA, ADEA, Cal-OSHA, ERISA, FEHA, FLSA and Title VII
3. Information Reform and Control Act
4. Trial Court Financial Policies and Procedures (AOC FIN 12.01)
5. Human Resources Records Management Policies, promulgated by AOC LERU
6. California Rules of Court

Where records management practices and retention periods are not established by statute or by rule or regulation of the Administrative Office of the Courts, this Court shall look to other professional organizations that promulgate records management policies (e.g. American Records Management Association (ARMA), American National Standards Institute (ANSI), Association for Information and Image Management (AIIM)) and employ sound business practices that best serve the interests of the Court.

IV. Definition of A Record

For the purpose of this policy, "record" shall be interpreted to mean: non-adjudicative, non-deliberative information created, received and/or maintained in any form by the Court, judicial

**Marin County Superior Court
Records Retention and Destruction Policy
Non-Deliberative and Non-Adjudicative Records**

officer or court employee in the transaction of court business or the conduct of judicial administrative matters and retained as evidence of such activity.

Agendas, materials (e.g. memoranda, documents, reports, etc.) and actions related to judges' meetings are deliberative and adjudicative in nature and, accordingly, do not meet the definition of a record and are exempt from the provisions of this policy. Records pertaining to such meeting forums as regular monthly judges' meetings, ad hoc or special judges' meetings and meetings of special judicial committees appointed by the Presiding Judge are exempt from this policy.

Non-deliberative and non-adjudicative records subject to attorney-client privilege are exempt from this policy.

V. Scope

This policy covers all judicial administrative records that are non-adjudicative and non-deliberative in nature, held in any form (paper or electronic), which relate to the administrative operations of the Court. The appendices provide retention timelines for documents in the following areas:

- | | |
|---|-------------------|
| 1. Email Records | <i>Appendix 1</i> |
| 2. Financial Management, Contracts and Procurement | <i>Appendix 2</i> |
| 3. Human Resources | <i>Appendix 3</i> |
| 4. Information Technology | <i>Appendix 4</i> |
| 5. General Administration not described in the categories above | <i>Appendix 5</i> |

Record retention periods may be subject to revision due to changes in the law, pending or impending litigation or audit requirements. Such changes may supersede the retention timelines established in this policy.

VI. Historic Records

Once records have fulfilled their administrative, fiscal, or legal function they will be disposed of as soon as practical in accordance with the Records Retention Schedules included in the Appendices, unless they have enduring historical value. Records of historical significance may document the history and development of the Court and have permanent research value. Historic documents shall be scanned and archived.

VII. No Retention Required

Documents and other materials that do not meet the definition of a record for the purposes of this policy do not need to be retained. No specific retention requirements are assigned to documents in this category. Instead, it is in the sole discretion of the originator or recipient to determine when the record's business utility has ended. Records (including originals and duplicates) that are not otherwise required to be retained may be destroyed when no longer useful to the drafter. Examples include research materials and documents generated for the

**Marin County Superior Court
Records Retention and Destruction Policy
Non-Deliberative and Non-Adjudicative Records**

convenience of the originator (e.g. raw notes prepared by mediators, investigators, supervisors, human resources or other staff containing interviews or other investigative materials that may be superseded by a report or other record subject to retention provisions of this policy or other law, rule or regulation); telephone message slips; notes and other similarly transient records; draft documents (other than some contracts) that have been superseded by subsequent versions; and duplicate copies of records that are no longer needed.

Individuals in possession of records for which they are neither the originator nor primary recipient (e.g. those who were copied on emails, etc.) are not responsible for retaining the records and may discard them once their business utility is terminated. They may assume that the original records will be retained in accordance with this policy by the drafters or primary recipients.

VIII. Exceptions to Policy and Audit and Litigation Holds

Suspension of all or any part of the provisions of this policy may be made by the Court Executive Officer in consultation with the Presiding Judge. The reasons for such suspension would be limited but might include pending litigation, legislative action or new statutes or rules that are in conflict with this policy. For example, if the Court was engaged in litigation or became aware that litigation was impending, the records destruction protocols may be suspended until such time as the nature and scope of such litigation is known.

Record retention periods may change due to changes in the law, government order, contract, litigation or audit requirements. Such changes supersede the requirements listed in this policy. Those responsible for managing official repositories must do their best to stay abreast of changing requirements.

From time to time the Court may become involved in litigation, performance or financial audits, or other types of investigations. Under those circumstances, certain paper, audio, video, film, e-mail and electronic record destruction must be halted.

The Human Resources Division or Executive Office will notify court personnel when it becomes necessary to retain documents due to pending or anticipated litigation, audit, or investigation. This hold overrides any records retention protocols that exist or scheduled electronic record destruction activities that may have otherwise been planned at the Court, until the hold has been released. Questions regarding litigation holds shall be addressed to court administrators.

IX. Administration of Policy

This policy applies to all judicial officers and court personnel at the Marin County Superior Court, and all contract employees, temporary employees, and volunteers. To ensure compliance with this policy the following policy compliance procedures and training shall be provided to individuals described in this section:

- **Policy Compliance:**
 - Court managers shall periodically review records subject to this policy and retained in paper, electronic and other formats to determine whether they have reached their specified retention periods.

**Marin County Superior Court
Records Retention and Destruction Policy
Non-Deliberative and Non-Adjudicative Records**

- Court managers shall seek guidance from this policy and the Court Executive Officer for any records for which the managers are unable to determine the business utility or retention period.
- Annually, the Court shall designate a "Records Review" time period (e.g. a one-week time period) in which employees shall be provided with direction and the resources to assess their files and assure compliance.
- **Training:** The Court shall ensure that employees are properly notified about the adoption of this policy and receive adequate training to enable them to perform the duties and responsibilities described herein. The Court shall provide an overview and targeted training and communications for:
 - Managers and executive administrative staff responsible for overall compliance with the provisions of the policy;
 - Regular full time and part time court staff who will have responsibility for managing their own work and other records maintained at the Court (e.g. email, desk notes, unit procedures and memoranda, etc.)
 - New employees, volunteers and contract and temporary employees who will typically have limited access to judicial administrative records but will receive training in email and personal desktop records management.

X. Separated Employees

The records of an employee who has separated from Court employment, either voluntarily or involuntarily, will be made available to the manager who had direct responsibility for that employee for a short review period after separation. The manager shall review all of the employee's paper, electronic, audio, video, film and other records to ascertain whether any of them are subject to retention under this policy. If some records must be retained, the manager will take custody and control of them and will monitor their retention. If the separated employee is a line staff person, the manager will have one week to review the records. If the employee is a line supervisor, manager, confidential, or judicial officer, the manager shall have two weeks to review the records.

**Marin County Superior Court
Records Retention and Destruction Policy
Non-Deliberative and Non-Adjudicative Records**

Appendix 1: E-Mail Records

Purpose

The purpose of this policy is to inform all judicial officers and court personnel of the requirements and responsibilities for managing, organizing, and destroying e-mail records. Additionally, this policy provides guidelines to prepare the Court for possible discovery of electronic records in litigation. A further goal of this policy is to ensure compliance with all legal retention requirements, where they exist in law. Moreover, this policy is intended to promote efficiency and potentially release digital storage space for other uses.

Policy Statement

The Court shall retain e-mail records for the period of their immediate or current use, unless longer retention is necessary for historical reference or to comply with contractual or legal requirements.

Definitions

This policy pertains to electronic information that covers the spectrum of business communication, including innocuous exchanges on subjects of a temporal nature, such as setting meeting dates or pertaining to case or procedural information, as well as more potentially sensitive information such as contract language, legal opinions, personnel and disciplinary matters, and confidential exchanges among judicial officers. This policy also applies to court employees' personal e-mail received, sent or forwarded using court equipment. This policy does not apply to official court case-related records or exhibits; those records are subject to separate requirements in law and rules of court.

This policy pertains to e-mails and their attachments regardless of how or where they are stored, including, but not limited to, network servers, Storage Area Network (SAN) systems, desktop or laptop computers, handheld computers, off-site storage, and other electronic devices with messaging capabilities.

In keeping with the goals of this policy, business e-mail shall not be forwarded to personal e-mail accounts.

Destruction Program

E-mails must be destroyed at the end of their useful life by the individual judge or court employee. Unless flagged for retention, e-mails, regardless of how or where they are stored, shall be destroyed by record storage personnel when e-mails are 12 months old. The court shall assure that all copies of emails stored on network servers, backup devices, or other media are also destroyed unless so marked for retention.

E-mail records maintained by professional records storage vendors must be destroyed through incineration or other process that meets industry standards for the destruction of records. This process must be supervised and written confirmation of the incineration must be provided to the court by the vendor.

**Marin County Superior Court
Records Retention and Destruction Policy
Non-Deliberative and Non-Adjudicative Records**

Appendix 2: Financial Management, Contracts and Procurement

Marin County Superior Court complies with the Administrative Office of the Courts *Trial Court Financial Policies and Procedures Manual, Sixth Edition (Effective July 1, 2006), Section 12, Policy 12.1*. This manual is updated periodically and the Court shall comply with all future records retention provisions found in this manual.

For reference purposes the overview retention schedule for records related to Financial Management, Contracts and Procurement have been included below. For policy details and retention and destruction guidelines please access the full policy on the AOC's website:

<http://www.courtinfo.ca.gov/reference/tcfp/documents/6ed/1201.pdf>

Financial Data Category	Types of information covered	Minimum Retention Period
Accounts Receivable/Accounts Payable	General Ledger, Journals, Backing Documentation, Receipts for Fines, Fees, Penalties Collected, Travel Expense Reports	Current year plus four additional years
Payroll	Payroll Reports, Payroll Adjustment Reports, W-2s, Employee Deduction and Direct Deposit Request Forms	Current year plus four additional years
Cash and Financial Statements	Deposit Certificates (GC 27008); Bank Account Records; Deposit Books, Slips, Bank Statements, Check Stubs and Cancelled Checks	Current year plus four additional years
Claims and Warrants	Claim, Warrant or Other paper issued as a warrant voucher, Any index or warrant voucher (GC 26907)	Current year plus four additional years
Budget and Financial Statements	Final Budgets, Quarterly and Annual Financial Statements and reports, Audit Reports	Current year plus four additional years
Grant Records	Financial records, supporting documents and other pertinent records	Three years after submittal of the final grant expenditure report
Contracts and Purchase Requisitions	Finalized contracts for acquisitions in excess of \$10,000; Purchase Requisitions, Inventory Reports	Current year plus four additional years

**Marin County Superior Court
Records Retention and Destruction Policy
Non-Deliberative and Non-Adjudicative Records**

Appendix 3: Human Resources

The following retention schedule has been created by the Human Resources Records Management Policies, promulgated by AOC Labor and Employee Relations Unit (LERU).

Personnel Data Category	Types of information covered	Minimum Retention Period	Laws requiring retention
Recruitment, Hiring, and Job Placement	<ul style="list-style-type: none"> Job application Resume Other job inquiries sent to the employer Employment referral records Applicant identification records Help wanted ads Opportunities for training, promotion or overtime Job opening notices sent to employment agencies or labor unions Employment testing results 	2 years or the duration of any claim or litigation involving hiring practices	<ul style="list-style-type: none"> Title VII FEHA ADA ADEA
Payroll Records	<ul style="list-style-type: none"> Name, employee number, address, age, sex, occupation Individual wage records Time and day work week begins Regular hourly rate Hours worked (daily and weekly) Weekly overtime earnings Daily or weekly straight time earnings Deductions from or additions to wages Wages paid each pay period Payment dates and periods Piece rates 	4 years	<ul style="list-style-type: none"> FLSA Cal Unemployment Insurance Code

**Marin County Superior Court
Records Retention and Destruction Policy
Non-Deliberative and Non-Adjudicative Records**

Personnel Data Category	Types of information covered	Minimum Retention Period	Laws requiring retention
Employee Wage Records	Time cards Wage rate calculation tables for straight time and overtime Shift schedules Individual employee's hours and days Piece rates Records explaining wage differentials between sexes	3 years	FLSA Cal Labor Code
Employment Eligibility Forms Verification	I-9 forms	The later of 3 years from hire date or 1 year after termination	Immigration Reform and Control Act
Child Labor Certificates and Notices		3 years	FLSA Cal Labor Code
Employee Personnel Files	Disciplinary notices Promotions and demotions Performance evaluations Discharge, layoff, transfer and recall files Training and testing files Physical files	2 years	Title VII ADEA FEHA ADA
Affirmative Action Programs and Documents		5 years (Discretionary, but recommended)	Title VII EO11246
Employee Health Records	First aid records for job injuries causing loss of work time Drug and alcohol test records	5 years (Chemical safety and toxic exposure records must be kept for duration of employment, plus 30 years)	OSHA Cal-OSHA

Personnel Data Category	Types of information covered	Minimum Retention Period	Laws requiring retention
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**Marin County Superior Court
Records Retention and Destruction Policy
Non-Deliberative and Non-Adjudicative Records**

			retention
Unlawful Employment Practices, Claims, Investigations and Legal Proceedings Records	Personnel and payroll records about complaining parties Personnel and payroll records about all other holding or applying for similar positions	Until disposition of case	Title VII FEHA ADEA ADA NLRA FLSA
Union and Employee Contracts		3 years	FLSA
Employee Benefits Date	Documentation of benefits elections Beneficiary designations Eligibility determinations COBRA notices Summary Plan Descriptions and Earnings	6 years but not less than 1 year following a plan termination (Records required to determine retirement benefits, including 401 (k) and similar plans, must be kept indefinitely)	ERISA
Conflict of Interest Statements (Form 700) completed by judges, commissioners and key court administrative staff who deal with contracts, procurement and financial documents	Personal investments, real property owned in Marin, business interests.	7 years	FPPC

**Marin County Superior Court
Records Retention and Destruction Policy
Non-Deliberative and Non-Adjudicative Records**

Appendix 4: Information Technology

Information Services and Technology Category	Types of information covered	Minimum Retention Period
Back-Up Tapes – Annual, Monthly, Weekly and/or Daily	Network and All Files	2 years or shortest retention period of data retained on back-up tapes
Application System Operations	Context Diagrams, System, Subsystem, Function, Process, Task, & Field Descriptions, Panel & Report Layouts, Data Flow Diagrams, Program Specifications, Program Listings, Database design, Table, Field & Key Definitions, etc.	Until system and data is no longer in use.
Access, Security Policies and Security Documentation	security policies, standards, guidelines, procedures, security plans	3 years after superseded or obsolete.
Computer Security Incident	reports, logs, extracts and compilations of data	5 years after incident is resolved.
Computer System Review	Firewall logs, System auditing logs, Reports, Reviews, Reports Generated at Administrative Request	Computer reports and logs when review report is completed. review report and supporting data after 3 years.
Miscellaneous Databases	Management and Caseload Tracking Tools and Logs	Retention based on administrative value

**Marin County Superior Court
Records Retention and Destruction Policy
Non-Deliberative and Non-Adjudicative Records**

Appendix 5: General Administrative Records

Correspondence and Memoranda

Most correspondence and internal memoranda shall be retained for the same period as the underlying records to which they pertain. For example, a letter pertaining to a particular contract would be retained as long as the contract (5 years after its expiration). Records that support a particular project assume the retention time period of the underlying project.

General administrative correspondence or memoranda that do not pertain to records having a prescribed retention period shall generally be retained for a relatively short period of time, unless they meet one of the exceptions for permanent retention described in section (2) below. These may be divided into two general categories:

- 1) Records pertaining to routine matters and having no significant, lasting consequences shall be discarded *within two years*. Some examples include:
 - Routine letters, memoranda and notes that require no acknowledgment or follow-up, such as notes of appreciation, congratulations, letters of transmittal, and plans for meetings.
 - Form letters that require no follow-up.
 - Letters of general inquiry and replies that complete a cycle of correspondence.
 - Letters or complaints requesting specific action that have no further value after changes are made or action taken (such as name or address change).
 - Other letters of inconsequential subject matter to which no further reference will be necessary.
 - Chronological correspondence files.

Copies of interoffice correspondence and documents where a copy will be in the originating department file should be read and destroyed, unless that information provides reference to or direction to other documents and must be kept for project traceability.

- 2) Records pertaining to non-routine matters or having significant lasting consequences, historical relevance or other public policy value shall generally be retained permanently. Historic files shall be scanned and maintained electronically.

Retention periods for other types of administrative records are included in the retention schedules that follow.

**Marin County Superior Court
Records Retention and Destruction Policy
Non-Deliberative and Non-Adjudicative Records**

Administrative Category	Types of information covered	Minimum Retention Period
Administrative Working Files	Subject files containing informational copies of various records organized by issue, person, subject or other areas of interest	Destroy when obsolete or superseded
Administrative Rules & Regulations, Judicial Administrative Orders, Standing Orders		Until Superseded
Appointment Calendars	Electronic and paper bound	Destroy when obsolete
Claims and Litigation		
Minutes and Files of General Office Meetings	Minutes, Agendas and meeting files from Court staff meetings, advisory committees and other internal court meetings held to coordinate activities, work out problems or as a vehicle for communication.	Date of record plus 2 years
Press Releases, Media Outreach/Response	Press releases and educational or opinion pieces authorized to be published by a representative of the Court	2 years from date of first publication
Public Complaints/Requests	Communications regarding personnel and non-adjudicative processes, and response when issued	Matter closed plus 3 years
Reference Materials	Brochures, Manuals, Newsletters, Policies, Reports and Procedures	Minimum 2 years or when obsolete or superseded
Security	Key/Key Card Inventory Intrusion Alarm Reports	1 year or superseded
Management and Caseload Reports	Appointment Management; Caseload/Employee Workload Reports, Help Desk Logs	Retention based on administrative value
Legal Opinions		Until Superseded
Miscellaneous	Various records not otherwise described	At originator's discretion