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REPORT TO THE JUDICIAL COUNCIL

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Court Administration: *Trial Court Records Manual*

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Executive Summary

This report introduces the *Trial Court Records Manual*, the initial version of a manual that provides guidance and assistance to the courts in managing court records and modernizing those records. The manual is an important resource containing references to statutes, rules, industry standards, and best practices relating to records management. It implements Assembly Bill 1926 (Evans) and California Rules of Court, rule 10.854. The initial version of the manual (Version 1.0) is effective January 1, 2011.¹

Previous Judicial Council Action

The promulgation of the *Trial Court Records Manual* is the final step in a long-term project to modernize trial court records. Under the leadership of the Court Executives Advisory Committee, measures to modernize trial court records have been under way for a number of

¹ A copy of the *Trial Court Records Manual* (Version 1.0) is attached at pages 76–153. It will be distributed electronically to the courts and made available online before January 1, 2011.

years. In 2009, the Judicial Council approved sponsoring legislation to modernize court records.² That legislation contained in Assembly Bill 1926 was enacted and signed by the Governor in August 2010 and become effective January 1, 2011.³

To implement the legislation, the Court Executives Advisory Committee and the Court Technology Advisory Committee recommended that the Judicial Council adopt a rule requiring the Administrative Office of the Courts, in collaboration with trial court presiding judges and court executives, to prepare, maintain, and distribute to the trial courts a manual providing standards and guidelines for the creation, maintenance, and retention of trial court records. The rule proposal was adopted by the Judicial Council on October 29, 2010. The rules on court records management, including rule 10.854 that provides for the establishment of a trial court records manual, will be effective on January 1, 2011.⁴

The final step in this project is the promulgation of the *Trial Court Records Manual*. The manual is intended to assist the trial courts and the public to have complete, accurate, efficient, and accessible court records. Like the legislation and the rule, the manual will be effective on January 1, 2011.

About the Trial Courts Records Manual

The purpose of the *Trial Court Records Manual* is twofold. First, it contains the statutory and rule requirements with which all trial courts must be in compliance to meet minimum standards to execute their important responsibilities pertaining to managing paper and electronic court records.

Second, the *Trial Court Records Manual* is intended to be a resource guide for court administrators and records staff to help them develop records management programs that best serve their local courts. The initial version of the manual includes a wide-ranging, though not exhaustive, list of topics that all courts are encouraged to address to ensure that they have comprehensive and effective local records management programs.

In addition to providing a resource that will contain all of the relevant statutes, rules, requirements, industry standards and many best practices for court records management, the *Trial Court Records Manual* will include a retention and destruction table for court records that is organized in a readable format and includes hyperlinks to the underlying authority for record retention in most case types.

The manual does *not require* any trial court to use new technologies or modify current practices. However, the next stage of court records management in California involves the transition from paper records to records that are created and exist only in electronic form. Some information in

² See the Judicial Council report at www.courtinfo.ca.gov/jc/documents/reports/121509item2.pdf.

³ The text of the bill may be viewed at www.leginfo.ca.gov/pub/09-10/bill/asm/ab_1901-1950/ab_1926_bill_20100823_chaptered.pdf

⁴ See the Judicial Council report at www.courtinfo.ca.gov/jc/documents/reports/20101029itema32.pdf.

the future will only exist in electronic form, and may consist only of data in fields of a case management system and not a form that is readily converted to paper. A comprehensive records management system must contemplate and enable the shift from paper to electronic records. The legislation, rules, and manual will facilitate that shift as it becomes feasible for the courts to implement it.

The manual will be periodically updated to reflect changes in technology that affect the creation, maintenance, and retention of court records. Except for technical changes or corrections or minor substantive changes unlikely to create controversy, proposed changes in the manual will be made available for comment from the trial courts before the manual is updated or changed. Under new rule 10.854(c) of the California Rules of Court, courts must be notified of any changes in standards or guidelines, including all those relating to the permanent retention of records.

Courts will benefit significantly from having a reference manual that highlights proven technologies and offers sample policies and procedures that can help them meet the challenges of effectively managing a huge volume of court records.

Comments and Responses

The first draft of the manual was prepared by the Working Group on Records Management of the Court Executives Advisory Committee.⁵ Before the manual was circulated for public comment, it was circulated to all trial court executives. The Court Executives Advisory Committee and the Court Technology Advisory Committee jointly reviewed the initial draft of the manual and recommended that it be circulated for public comment. The final version of the manual with this report was then approved by the Administrative Director of the Courts.

The *Trial Court Records Manual* was circulated for approximately two months in August and September 2010.⁶ Eighteen comments were received on the draft. The commentators included nine superior courts, the California Judges Association, several media organizations, a television news producer, the editor of a news service, an accountant, and the State Bar's Committee on Administration of Justice. A chart summarizing the public comments and responses is attached.⁷

Technical or Stylistic Comments

The public comments fall into several categories. First, a number of the comments were of an essentially *technical or stylistic* nature. (for example, comments 6 and 8) Many of these technical

⁵ The working group was chaired by Kim Turner, Court Executive Officer of the Superior Court of Marin County. Its members included court executive and technology officers from superior courts in various counties including Monterey, Napa, Orange, Los Angeles and Santa Barbara, and an assistant clerk/administrator from the Court of Appeal, Fourth Appellate District.

⁶ The invitation to comment on the manual is available at www.courtinfo.ca.gov/invitationstocomment/documents/sp10-02.pdf

⁷ The chart of comments is attached at pages 6–74. The Court Executives Advisory Committee reviewed all public comments and recommends the responses presented in the chart.

and stylistic changes suggested by the commentators were well-founded. The manual has been modified to reflect those comments.

Comments for future versions

Second, some commentators made suggestions for materials to be added in future versions of the manual or recommended that current sections be developed further. (for example, comment 14.) When the manual was being drafted and prepared for circulation, it was recognized that the initial version of the manual would not be able to fully and comprehensively cover all topics relating to court records. So the invitation to comment expressly invited comments on certain topics on which it is anticipated that more information will need to be provided in the future. The comments received on these matters were very helpful. They will be considered when *future versions* of the manual are being developed.⁸

Third, a number of commentators used the comment process to make suggestions for changes to the law on court records and other matters. These suggestions are *beyond the scope* of the manual. The manual presents key information about the current law relating to trial court records and recommendations about best practices. The information in the manual is intended to assist the courts and the public in understanding how records are to be treated under existing law. The manual, however, is not the place for introducing changes in the law or for discussing and resolving such changes.⁹ Commentators specific suggestions for changes in the law on court records will be referred by staff to the appropriate Judicial Council advisory committees for consideration.

Legislative Updates to the Manual

In addition to the changes made in response to the comments, some recent changes in the law on court records that will become effective by January 1, 2011 have been included in the manual.

For instance, Senate Bill 1149, effective January 1, 2011, changes the law regarding access to records in unlawful detainer cases involving foreclosures of residential property. The relevant statutory changes in SB 1149 have been included in the part of section 10.3.1 of the manual that deals with confidential civil records and in Appendix 1, Chart of Records Confidential by Statute or Rule.¹⁰

⁸ The working group particularly recognizes the importance of providing more guidance in future versions of the manual regarding the creation and maintenance of records in electronic form. (See comment 14.) Providing more guidance on this subject will be a priority in developing subsequent versions of the manual.

⁹ This is not to say that many of the issues raised by the commentators are not important or that they should not be considered in another context. Commentators have raised a number of issues that warrant further discussion—such as whether the media should have special access to documents before they have been processed and filed by the court (comment 1) or whether court records that are remotely accessible should be provided to the public free of charge or for a nominal fee (comment 17). The point here is that the records manual is not the place to consider and resolve these controversial matters.

¹⁰ The Office of Governmental Affairs also brought to the working group's attention Assembly Bill 2767, the civil omnibus bill, which clarifies that people allowed access to Uniform Parentage Act (UPA) files for inspection

The manual has also been updated to include a reference to newly adopted rule 1.51. This rule, effective January 1, 2011, clarifies that Judicial Council information forms used for submitting information to law enforcement through the California Law Enforcement Telecommunications System (CLETS) are confidential. The rule also specifies who may have access to the information on the forms and prescribes for how long the courts must retain the forms before they are destroyed.

In the future, it is anticipated that there will be additional legislation and rule changes relating to court records that will require the regular updating of the manual.

Implementation Requirements, Costs, and Operational Impacts

The purpose of the manual is to assist the courts in managing trial court records. As indicated above, the manual does *not require* any trial courts to use new technologies or modify current practices. The manual provides a comprehensive source of references to the law relating to court records, whether in paper or electronic form. For courts seeking to modernize their records management practices, the manual provides very useful and important guidance. The manual will need to be updated periodically to reflect changes in the law and technology.

Relevant Strategic Plan Goals and Operational Plan Objectives

The manual furthers the goal of modernization of management and administration (Goal III). It also advances the goal of providing branch wide infrastructure for service excellence (Goal VI) (see Objective 4, Desired Outcomes b (new statutes and rules of court to support increased electronic archiving of court records)).

Attachments

1. Attachment A: Chart of the public comments and responses at pages 6–74.
1. Attachment B: Cal. Rules of Court, rules 10.850 and 10.854 at page 75.
3. Attachment C: *Trial Court Records Manual* (Version 1.0) at pages 76–153.

purposes may also copy those files. The bill amends Family Code section 7643. The manual does not currently contain a section on the copying of court records; however, if a future version of the manual includes a section on the copying of records, the new provision in section 7643 on copying UPA files should be included in that section.

SP10-02

Court Administration: Trial Courts Record Manual

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Response
1.	<p>Californians Aware, California Newspaper Publishers Association, Courthouse News Service and First Amendment Coalition San Francisco By Rachel Matteo-Boehm Holme Roberts & Owen LLP</p>	NI	<p>On behalf of the California Newspaper Publishers Association, the First Amendment Coalition, Californians Aware, and Courthouse News Service (collectively, the “Press Groups”), we are pleased to make this submission in response to the Judicial Council’s invitation for written comments on the Trial Court Records Manual (the “Manual”).</p> <p>The Press Groups have a particular interest in the aspects of trial court record creation and maintenance that affect the media’s ability to access court records in a timely manner and therefore focus their comments on the court record creation process (Section 4.1), e-filing (Section 4.4), press access to court records (proposed new section within Chapter 10), and case numbering systems (Sections 4.2 and 4.3).</p> <p>[The remainder of the Press Group’s comments, including the full text of its thirteen page letter and a thirteen page appendix, are attached at the end of this comment chart.]</p>	<p>The extensive comments provided by the Press Groups are appreciated. Access to public records by the public and the role that the press plays in making information about the courts available to the public are important. As the comentators note, the manual expressly recognizes the importance of creating and maintaining complete, accurate, and accessible court records. (Section 1.2, Purpose of Records Manual.)</p> <p>As indicated at the beginning of the Press Groups’ comments, the commentators’ particular interest is in the aspects of trial record creation and maintenance that affect the ability of the media to access court records in a timely manner. The commentators’ focus is on sections of the manual that are planned for subsequent versions of the manual (section 4.1 on records creation) or will be expanded in the future (section 4.4 on e-filing). The comments also suggest creating a new section on press access to public records. Finally, the comments include some specific comments on case numbering systems (sections 4.2 and 4.3).</p> <p>The Court Records Creation process (section 4.10) is not yet included in the current version of the manual. The Press Groups’</p>

	Commentator	Position	Comment	Response
				<p>comments will therefore be considered in preparing the section. In addition, there is currently no special section on press access to records. Including such a section will be considered in the future.</p> <p>Although it is premature to address most of the Press Group's comments, a few general observations may be appropriate at this time.</p> <p>Basically, the manual is intended to provide guidance to the courts on the current law on records management and the best practices that courts have developed to apply the law. Thus, the manual provides users with the statutes and rules relating to court records, including those that relate to access to records. On the other hand, the manual is not intended to be a means for changing the law or for resolving controversial legal issues.</p> <p>Access to Court Records</p> <p>The Press Groups' comments devote substantial attention to issues relating to access to court records. While some of these comments summarize existing law, the comments also advance a legal argument that members of the media are entitled not only to the same filed documents as the public under the law, but also to special access to pre-filed documents. The commentators argue that documents that have been received, but not yet processed for filing, should be made available to them immediately or on the same day that they are received, even before the documents have been processed.</p>

	Commentator	Position	Comment	Response
				<p>This argument for a change in the manner in which court records are made accessible poses many significant practical and legal issues. First, the trial courts have been facing major fiscal challenges for several years. The lack of resources has sometimes made it very difficult or impossible to process all documents that are submitted to the court so that they are filed on the same day that they are received. While the courts would certainly like to process all documents submitted expeditiously, their fiscal constraints do not always make this possible.</p> <p>Second, the circumstances of courts vary widely. Some still use entirely paper records, some scan in part or all of their records electronically, and some are beginning to receive and process documents through e-filing. Depending on individual courts' circumstances, including staffing, equipment, technology and other factors, courts have different capacities and abilities to process documents submitted for filing. There is no "one size fits all" method for processing documents received by the trial courts in California.</p> <p>Third, the manual provides information regarding the basic law on access to court records. (See sections 2.2 and 10.1) "Court records" are generally defined as consisting of documents that have been <i>filed</i> with the court. (See Government Code, § 68151(a).) This definition has been used in the manual Furthermore, it is a reasonable interpretation of the laws on access to court records to mean that the laws on access apply to court records</p>

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				<p>that have been <i>filed</i>. Indeed, some of the Press Groups' own analysis and case citations support this interpretation. However, at other times, their comments seem to argue for special media access to pre-filed documents.</p> <p>The issue of whether the media should have special access to pre-filed documents before they have been properly filed and made available to the public is not one that it is appropriate to attempt to resolve in the context of developing the present court records manual. The purpose of the manual, as indicated above, it is to provide a statement of current law; it is not meant to be a vehicle for changing the law. Given all the substantial practical and legal issues involved, it would not be appropriate for the manual to mandate any particular times or methods for providing access to the media to court records. Particular media organizations are welcome to discuss with particular courts the best means to ensure timely and effective access to court records.</p> <p>E-Filing</p> <p>The section of the manual on e-filing will be expanded in the future to provide additional information. It will take into account the Press Groups' comments. However, the committee disagreed with the commentators' pessimistic evaluation of e-filing. It believes that e-filing not only can assist in making, but has been making possible greater and more expeditious access to court records for the public. It would be contrary to improving public access to hold back on the progress</p>

	Commentator	Position	Comment	Response
				<p>that courts are making by introducing e-filing. Courts that are able to make e-filing possible should be encouraged to do so. The factors listed in section 4.1.1 should be helpful for the courts in assessing the advantages and disadvantages of e-filing.</p> <p>Case Numbering Systems</p> <p>Regarding the Press Groups’ specific comments on the sections of the manual on courts records numbering system (section 4.2 and 4.3), the committee disagreed with the comments.</p> <p>Case numbering systems exist for the purpose of identifying and organizing filed cases. The numbering schemes already in place in the trial courts reflect local practices, case management system design and limitations, and the manner in which the courts organize their work. When all trial courts are deployed on the California Case Management System, there will be a uniform numbering scheme that will be adopted by all trial courts. Until that time, it is unlikely that courts will see the necessity to change their current practices, particularly because most of them are longstanding, in the area of case numbering systems.</p>
2.	California Judges Association San Francisco, CA Jordan Posamentier, Esq., Legislative Counsel	NI	This letter responds to the Judicial Council’s request for public comment on the draft Trial Court Records Manual (“the Manual”). The Manual is a good “first step” in providing a reference guide for the new statutory and rule requirements contained in the recently chaptered AB 1926. The California Judges Association approves of the Manual with the	The committee notes the California Judges Association’s general approval of the manual as a “good first step.”

	Commentator	Position	Comment	Response
			<p>following comments and suggestions.</p> <p>It would be helpful if the Manual focused more on mandatory requirements for court recordkeeping management programs. To avoid confusion, it should include prefatory language explaining that, except as required by statute and court rules, the Manual contains recommendations that do not constitute directives or mandates to trial courts. Rather, the Manual seeks to explain current best practices in trial court records management.</p> <p>CJA believes the Manual would provide greater utility if the body of it was restricted to explaining mandatory requirements, with either an appendix or separate sections devoted to optional recommendations and less critical information. For example, there is minimal need to provide information about the various court records that every court likely already possesses. (See e.g., Section 5 (record classification).) Similarly, small courts benefit little from information addressing the transition from the current paper record system to an electronic record system.</p>	<p>The committee disagreed with this particular suggestion. It believes that the focus of the manual is balanced and appropriate. The committee decided to develop the manual as a resource guide and single reference source to help trial courts ensure that they are 1) meeting legal requirements, and 2) benefitting from initiatives that other courts have developed that are considered best industry practices.</p> <p>The committee also prefaced their intentions on page 1 of the manual to assist users to distinguish between mandatory requirements and optional features of court records management programs, by placing a light bulb icon before sections containing optional ideas, policies and programs, and best industry practices. Sections not preceded by this icon contain mandatory requirements. Sections containing mandatory requirements contain links to the relevant statutes or rules.</p> <p>The committee disagreed with this comment for the reasons noted above. The language in section 5 (Record Classification) was deliberately included in order to implement the goal of using the manual to broaden the conventional definition of records management to encompass the complete life cycle of court documents from initial filing and, classification to final storage and destruction.</p>

	Commentator	Position	Comment	Response
			<p>Small courts probably do not have a “records manager,” nor is there any realistic expectation of funding such a position. They would have limited success in attempting to transition on their own, and implementing on a piecemeal basis could be counterproductive. (For small courts, implementation probably should be initiated only after the entire system is designed – especially true if it is to interface in the future with CCMS – and with the assistance of a hands-on expert.) The mandatory requirements, in contrast, apply statewide to courts of all sizes.</p> <p>Comment to 4.4 E-filing (electronic format filing protocols)</p> <p>Rule 4.4 outlines the advantages and disadvantages of courts converting to a paperless records system, including filings by the public.</p> <p>However, the Manual does not explain what type of software will be used or accepted by the court: e.g. MS Word 7 or some generic format. Also, how soon do the filers need to upgrade their software to be able to file court documents? Clarification of this would be important to court records managers and litigants.</p> <p>Comment to 5.1 (standard record classifications)</p> <p>Rule 5.1 classifies cases according to category and type.</p> <p>Misdemeanors and infractions are all grouped together. It would seem that there should be an additional class of cases limited to traffic cases, as they comprise a large part of the caseload and should</p>	<p>The committee agreed that some courts may not benefit today from information addressing the transition from paper to electronic records storage. This first version of the manual was drafted with the current records management environment in mind, but it is contemplated that subsequent versions will reflect emerging records technologies as they are implemented in the trial courts. Initiatives are underway to using technology for document imaging for small courts as well as larger ones.</p> <p>Comment to 4.4 E-filing (electronic format filing protocols)</p> <p>The committee agreed with this comment. It plans to address these issues in future versions of the Trial Court Records Manual.</p> <p>Comment to 5.1 (standard record classifications)</p> <p>The committee disagreed with this suggestion. The manual references the same case categories and definitions to complement those found in the Judicial</p>

	Commentator	Position	Comment	Response
			<p>be handled separate and distinct from misdemeanors and other infractions.</p> <p>Comment to 7.5 (death penalty exhibits)</p> <p>Rule. 7.5 discusses how long to retain exhibits in death penalty cases.</p> <p>A definition of "execution of sentence" should be identified. Death penalty cases can return to courts several times over long spans of time, and sometimes with new evidence (e.g., due to forensic improvements) introduced that dates back several decades.</p> <p>Comment to 11.4.1 Records Retention and Destruction Schedule under Government Code Sections 68152 and 68153</p> <p>Rule 11.4.1 charts retention periods based on case types.</p> <p>While Government Code Section 68152 authorizes the court to destroy domestic violence and harassment case records 60 days after expiration of the temporary protective or temporary restraining order, this is not necessarily the best practice. Individuals subject to the order might move to a new jurisdiction, which has no record of their past activity. A better practice might be to preserve these cases up to 3 years after the expiration of the order so that the new jurisdiction can refer to them if needed.</p>	<p>Branch Statistical Information System (JBSIS).</p> <p>Comment to 7.5 (death penalty exhibits)</p> <p>The committee agreed that there is limited guidance for death penalty exhibits for cases that span long periods of time. This topic will be addressed in future versions of the manual.</p> <p>Comment to 11.4.1 Records Retention and Destruction Schedule under Government Code Sections 68152 and 68153</p> <p>The committee disagreed with this suggestion, in part. Section 11.4.1 is a restatement of what is contained in Government Code section 68152. This section of the manual simply states the law. So as not to confuse users of the Trial Court Records Manual, this section is not intended to include best practices. However, the committee will consider whether there is another section in the TCRM in which this best practice might be included in the future. Over time, with the deployment of California Courts Protective Order Registry (CCPOR), many courts will have their domestic violence and harassment case data in a central repository, which will alleviate some cross-</p>

	Commentator	Position	Comment	Response
			<p>Conclusion</p> <p>The Manual will serve as an outstanding resource for mandatory requirements. We look forward to seeing the final version.</p>	<p>jurisdictional concerns.</p> <p>Conclusion</p> <p>The committee appreciates the CJA’s recognition of the usefulness of the manual.</p>
3.	Eugene M. Frank, CPA, MBA Records Retention, Audit and Control Specialist Winnetka, CA	NI	<p>I’m a records retention, audit and control specialist. My area of interest is the preservation, retention, and maintenance of court records and the controls established over the destruction of court records. My specific interest is in the controls established over the records retention and destruction processes.</p> <p>It is my understanding that the main purposes of AB 1926 are to authorize, permit and promote the creation and maintenance of court records in electronic form to enable reduction in court administrative and storage costs, under standards and guidelines established by the Judicial Council. Furthermore, it is my understanding that AB 1926 does not change the substance of California Government Code Sections 68150-68153, Chapter 1.4. Management of Trial Court Records, other than to permit use of electronic records and conversion of non-electronic records into electronic form. Code Sections 68150-68153 are the codes governing the preservation, maintenance, retention and destruction of court records.</p> <p>The proposed rules would require that the Administrative Office of the Courts, in collaboration with trial court presiding judges and court executives, prepare, maintain, and distribute a manual providing standards and guidelines for the creation, maintenance, and retention of trial court records. Such standards and guidelines for the</p>	

	Commentator	Position	Comment	Response
			<p>creation, maintenance, and retention of trial court records will be contained in the "Trial Court Records Manual" and must be consistent with Government Code, Sections 68150-68153.</p> <p>This letter is in response to the request for public comments.</p> <p><u>The major purpose of court records management, including the creation, preservation, retention and destruction of records is to preserve and protect the appellate rights of defendants in accordance with their due process rights under the Sixth and Fourteenth Amendments to the United States Constitution.</u></p> <p>Our judicial process is based on an adversarial process that assumes equality of representation between the prosecution and defense and by that process truth and justice is served. That might be true for defendants with wealth to afford first-rate representation that offsets the infinite resources of the prosecution and can thwart judicial error. But it definitely is not true for defendants with modest or no financial means. The appellate process enables them to have a second and independent review of the trial proceedings. Accordingly, retention and availability of courts records is of extreme importance. The retention and destruction processes are of extreme importance. The manual I read belies their importance.</p> <p>That is why the statement on page 5, first paragraph of the manual, "...archiving and destruction is just the last, and perhaps least important step in the records management process" is repugnant, callous and uncaring for the due process rights of individuals. In felony cases, years after a trial</p>	<p>Providing a record on appeal is certainly one very important purpose of records management. There are also other purposes (see, for example, comment 5 below on the importance of court records to the public in a democracy.)</p> <p>The committee agreed that the statement in the draft manual was not appropriate. The manual is not intended in any way to demean the importance of safeguards pertaining to the</p>

	Commentator	Position	Comment	Response
			<p>conviction, evidence might come to light that important testimony used to convict was false. Ability to retrieve the perjured testimony would become important to appeal and reverse conviction. But, what if the court records were destroyed? No, no, retention and control over the destruction of court records is of the utmost importance, not the least important in the records management process.</p> <p>Code Section 68151(a) defines “court record” as consisting of the following:</p> <ol style="list-style-type: none"> (1) All filed papers and documents in the case folder. (2) Administrative records filed in an action or proceeding, depositions, exhibits, transcripts... (3) Other records listed under subdivision (j) of Section 68152. <p>Other records includes ((j)(7) court reporter notes, and (j)(8) electronic recordings made as the official record of the oral proceedings. Both of equal importance.</p> <p>Retention period of 75 years in non-capital felony cases includes which court records? That is not specified. I presume they include those mentioned in Code 68151(a)(1) and (a)(2). But, then I ask you, what if the court reporter notes (j)(7) or (j)(8) electronic recordings made as the official record have not been transcribed? Transcripts are retained for 75 years but other records (j)(7) or (j)(8) from which a transcript is made are retained for only ten years. Are such untranscribed “Other records” of less importance than if there was a transcript. They contain the same important trial proceedings, just in different forms. The State of Louisiana has it right. Court reporter</p>	<p>archiving and destruction of court records. This section of the manual has been revised.</p> <p>This comment appears to go beyond the scope of the manual. The manual is intended to provide information and guidance to the courts regarding the current law, including the law regarding records retention, preservation, and destruction. (See section 11.) This comment, however, suggests changes in the law regarding records retention, preservation, and destruction.</p>

	Commentator	Position	Comment	Response
			<p>notes are retained until a full transcript is made or until the retention period for a transcript has been reached. The manual needs to better clarify the retention guidelines.</p> <p><u>The destruction process is probably the most important process in the records management cycle.</u></p> <p>Code Sections 68152 and 68153 require that five (5) conditions must be met before court records can be destroyed and two (2) conditions after destruction. Remember court records include those noted in Code Section 68151(a)(1), (a)(2) and (a)(3). Subsection 68151(a)(3) being “Other records identified in Code Section 68152(j). The manual fails to address this or clarify these definitions.</p> <p>The five conditions required by Code Sections 68152 and 68153 are as follows:</p> <ol style="list-style-type: none"> 1. The applicable retention time has expired. (Code Section 68152) 2. After (there must be) final disposition of the case (defined in Code Section 68151). (Code Section 68152) 3. Notice of destruction (intention) has been given. (Code Section 68152) 4. There is no request and order for transfer of the records. (Code Section 68152) 5. Upon the order of the presiding judge of the court (required by Code Section 68153). <p>Where are these conditions stated in the manual? They should be clearly stated as requirements that must be met before court records may be destroyed. The manual should contain an example of a sign-off sheet requiring a signature or initial by each condition that each condition has been met. The document should be dated with supervisory</p>	<p>The manual provides direct links to each of the statutes referred to in this comment.</p> <p>The committee agreed with this comment. The manual has been revised to include these five conditions in section 11.</p>

	Commentator	Position	Comment	Response
			<p>approval.</p> <p>Code Section 68153 requires two conditions, after the destruction of records.</p> <ol style="list-style-type: none"> 1. Notation of the date of destruction shall be made. 2. 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. <p>Where are these conditions stated in the manual? If they are, I missed it.</p> <p>Question: Why isn't a corroborating witness of the destruction required with a sign-off that all conditions have been met, such as discussed above? That's how important the destruction process is and should be. To do otherwise, allows the courts to bend the rules with no oversight and no accountability! And, don't tell me that adherence to the destruction process is based on trust! Trust is not a control. Trust does not assure accountability! Trust does not ensure processes are followed! If allowed, courts will short-cut processes, particularly record retention and destruction processes. With no control, no oversight, court employees can violate destruction processes with impunity.</p> <p>For all these reasons, I find the manual inadequate, poorly written and more confusing than clarifying!</p> <p>Finally, I strongly suggest eliminating Code Section 69955(e) regarding destruction of court reporter notes or emasculate it. It is archaic and without any oversight or control measures. It requires no accountability in the destruction of court records, no notice, no documentation of the destruction and no</p>	<p>The committee agreed that these two conditions in Government Code section 68153 should be referenced in the manual.</p> <p>This question suggests there should be a change in existing law, which is beyond the scope of the manual.</p> <p>This suggestion for the repeal of a code section is beyond the scope of the manual, which is intended to provide information for the courts about existing law. The suggestion for possible legislation should be addressed by staff to an appropriate Judicial Council</p>

	Commentator	Position	Comment	Response
			reporting of record destruction. It is bad record management at its worst! And, since 1994, Code Sections 68150-68153 have superseded it. Eliminate it!!	advisory committee for consideration.
4.	Bill Girdner Editor Courthouse New Service Pasadena, CA	NI	<p>I write in response to the Judicial Council's invitation for written comments on the Trial Court Records Manual. I make these comments in my personal capacity as the founder and editor of a news service I started 20 years ago in Pasadena called Courthouse News Service. Courthouse News is submitting a separate set of comments, made in its organizational capacity and through its attorneys.</p> <p>I submit these comments in my personal capacity so that I may convey my personal observations, as a longtime journalist covering California's courts, on the Trial Court Records Manual as it relates to the press. I have worked as the editor of Courthouse News Service for the last 20 years, and worked as a journalist covering legal stories primarily for the Los Angeles Daily Journal, the Boston Globe and the New York Times for the preceding ten years.</p> <p>In that time, I have observed the many changes that have taken place in the ability of journalists to review the court's work and publish stories that fairly represent the great variety, difficulty, gravity and humor of the human events and conflicts that wind up in the trial courts for resolution.</p> <p>The first paragraph of Section 1.2 of The California Trial Court Records Manual, on the purpose of records management, is one that I emphatically</p>	<p>The committee agreed with the commentator that maintaining court records is not only a fundamental role of courts, but is also a fundamental principle of our democracy.</p> <p>Regarding the access issues raised below, there are existing procedures for access to court records in the trial courts. Courts are willing to work with the media on access issues. And legal recourse is available to the press if appropriate access to court records is denied. However, addressing all of these access issues is beyond the scope of this manual.</p>

	Commentator	Position	Comment	Response
			<p>agree with – that keeping the court record is a “fundamental role” of the courts.</p> <p>I would go further. The record is a fundamental element of our democracy. It provides a window into the working of an open government and shows how decisions are made in a government that is, in the words memorized by high school students around our nation, “of the people, by the people and for the people.”</p> <p>The court record is not only a history of the court’s work but it is also a dynamic thing that changes and grows every day (except weekends, for the most part) and tells of controversies and decisions that are part of the fabric, the weave of our democracy.</p> <p>I say all this because that fundamental importance of the activity of the courts is what has caused newspapers to cover the courts, keep track of what is going in them and staff press rooms in courthouses around the state and over the years.</p> <p>Traditionally, part of a journalist’s courthouse beat was to cover precisely what the Judicial Council is describing as fundamental, the record. Journalists cover the record by checking what can best be described as a set of catch basins for documents, the new filings for that day, the subsequent filings for that day and the judgments or rulings.</p> <p>Over the last twenty years in California, the ability of journalists to check those catch basins has been squeezed in moves big and small by individual courts, limiting where journalists can go and the times they can check and what they can see. That drip-by-drip erosion of access includes kicking</p>	

	Commentator	Position	Comment	Response
			<p>journalists out from behind the counter, taking away grace periods at the end of the day that allow review of late matters, requiring that journalists review electronic images of paper-filed cases, then limiting the number of screens, requiring that journalists stand in long lines to see the record, limiting the number of documents they can see and then requiring that they go to the end of the line, charging search fees, attempting to close press rooms early, not including press rooms in new court buildings, and, most importantly, interposing processes that take a day or days, such as jacketing, docketing and scanning, before a journalist can see the record. The impediments to access have been compounded in a series of big courts in California by the adoption of a complex and time-consuming case management system that delays access even more, thus gutting the record's news value.</p> <p>The ongoing set of conflicts between the press and court administrators over access can be compared to a long-running battle where the administrators make incursions into press access and where the press fights back successfully in some cases but loses in more, with the overall outcome that press access in California's trial courts has deteriorated substantially.</p> <p>The result that I have observed is fewer news stories involving the trial courts, less information coming out of those courts to the public, less access not only to the documents but also to the judges and officials of the court, and a greatly more insular and less responsive bureaucracy within California's courts.</p> <p>The trend in the relationship between courts and the public and the press is symbolized by the architecture of more recent court construction in</p>	

	Commentator	Position	Comment	Response
			<p>which the areas where court personnel interface with the public consist of floor-to-ceiling walls with a thick glass dividers through which members of the public talk to their employees, as compared to the open counters that exemplify earlier court construction where public employees spoke face-to-face with members of the public, with lawyers and with journalists, across the counter. The courts are becoming fortresses.</p> <p>The drafting of the California Trial Courts Manual is an opportunity to reverse the long term degradation of press access to California's courts and make a clear statement that the record of the courts is indeed the public record and must be kept open and accessible to the press in a prompt and thorough manner.</p>	
5.	KFMB News 8 San Diego By David Gotfredson News Producer San Diego, CA	AM	<p>As a member of the media, I would like to comment on the availability of public court records which frequently are treated as confidential but, in fact, are open judicial records. As the Judicial Council transitions to electronic filing of court records, I feel strongly that procedures need to be established to give the public access to these two specific categories of records:</p> <p>1. Search Warrants.</p> <p>Under California law, a search warrant becomes a public record 10 days after it is executed. Some warrants get sealed by the judge, but most do not. Likewise, the search warrant log book is a public record, which is open to inspection.</p> <p>I would like to see some sort of electronic access to both the search warrant log and executed search warrants. The federal Pacer system currently has</p>	<p>The commentators' suggestions are not entirely clear. On the one hand, the California Rules of Court already require trial courts to provide reasonable access to all electronic records, except those sealed by court order or made confidential by law, to the extent it is feasible to do so. On the other hand, the rules provide for restrictions on <i>remote</i> public access to certain types of records, including criminal and juvenile records. (See Cal. Rules of Court, rule 2.503(a) and (c).) These restrictions were established for reasons of public policy.</p> <p>The records manual is intended only to state existing law. It is not intended as a means for changing the law. If the commentator would like to propose specific changes to the laws on remote access to criminal or juvenile records, the suggestions should be addressed</p>

	Commentator	Position	Comment	Response
			<p>such a system in place. So, for example, when a search warrant is requested by law enforcement, the number could be entered into an online database. If the warrant is sealed, the word SEALED could be placed by the warrant number. After the warrant is executed, the address of execution could be entered into the index of the database. Simply click on that executed address link and the public could view the search warrant. Of course, if the warrant is returned un-served, the warrant would not be viewable. This sort of online search warrant database would not only allow public access to search warrants, but also offer a searchable address index of the executed warrants.</p> <p>2. Juvenile Records.</p> <p>As the draft California Trial Court Records Manual states:</p> <p>“There is also an exception to this rule of confidentiality for certain records in cases brought under Welfare and Institutions Code section 602, in which the minor is charged with one or more specified violent offenses. (Welf. & Inst. Code § 676.) In such cases, the charging petition, the minutes, and the jurisdictional and dispositional orders are available for public inspection (Welf. & Inst. Code, § 676, subd. (d))...”</p> <p>Would it be possible to track juvenile cases that meet the criteria above, and once the juvenile petition is sustained, make the specific public documents available online? Currently, obtaining juvenile records for such cases is virtually impossible, and for a member of the media, usually requires hiring an attorney and filing a motion. This, for juvenile records that are presumed to be public by law.</p>	<p>to the appropriate Judicial Council advisory committees.</p>

	Commentator	Position	Comment	Response
			Please consider implementing an online system for granting public access to these juvenile records.	
6.	San Diego County District Attorney By Bonnie M. Dumanis District Attorney San Diego, CA	NI	<p>As a District Attorney of San Diego County I have reviewed and considered the <i>Trial Court Records Manual</i> with particular interest in the sections addressing criminal law. I offer the following observations and comments.</p> <p>Section 1.2 (page 3): The Judicial Council may wish to incorporate a phrase in the 4th paragraph to explain that “the public must be able to see all the information the court considered in making its decision,” <i>except that which has been sealed or is subject to rules protecting the confidentiality of the information.</i></p> <p>Section 7.3.3 (page 25): The Judicial Council may wish to consider that often times DNA evidence is obtained from evidence in this category and may thus be subject to Penal Code section 1417.9(a).</p> <p>Section 7.4.5 (page 27): The Judicial Council may wish to clarify the scope of the mandate that harmful material be returned to the court by state agents. Does this include the city and county prosecutorial and law enforcement agencies? If so, this section is of significant concern to the local law enforcement as we routinely maintain harmful material which has ongoing evidentiary value for retrials after appeal and other post conviction litigation. Post conviction litigation is especially prevalent in child molest cases due to the long sentences imposed for those crimes. If indeed the Judicial Council does wish to include these parties, the section does not clearly put them on notice since it only refers to the “state.”</p>	<p>Section 1.2 (page 3): The committee agreed with this comment. The suggested language or language to that effect has been included in the manual.</p> <p>Section 7.3.3 (page 25): The committee agreed with this comment. Section 7.3.3 has been revised to include a reference to the retention requirements of Penal Code 1417.9(a).</p> <p>Section 7.4.5 (page 27): The language of Section 7.4.5 is taken from Penal Code § 1417.8, and makes no changes to the process described in that section. Section 7.4.5 is, therefore, a restatement of the current law. As such, the section does not make any substantive changes to the way courts are currently handling the harmful materials that are the subject of Penal Code § 1417.8.</p>

	Commentator	Position	Comment	Response
			<p>Section 10.2 (page 32): The Judicial Council may wish to consider adding language to this section indicating that notice of intent to post web documents must be given by the court 5 days prior to posting, requesting and opposing parties must be provided with an opportunity to be heard, and certain factors must be weighed by the court under section 2.503(e) prior to publication. This will avoid premature publication of documents which may violate Marsy’s law or create prejudice to the parties.</p> <p>Section 10.3.1 (page 32-35): The Judicial Council may want to consider adding a section into this chart under the “Criminal Case Records” section</p>	<p>Section 10.2 (page 32): The committee agreed with this comment. Section 10.2 has been revised to reference the notice requirements of California Rule of Court, rule 2.503(e)(3) as well as the factors the court must consider when making its determination. The second paragraph of Section 10.2 has been revised to read:</p> <p>“Under rule 2.503(e) of the California Rules of Court, the presiding judge or a designated judge may order the records of a high-profile criminal case to be posted on the court’s Web site to enable faster and easier access to these records by the media and public. This rule specifies several factors that judges must consider before taking such action. Prior to posting, staff should, to the extent feasible, redact any confidential information contained in the court documents in accord with California Rule of Court, rule 2.503(e)(2). In addition, five (5) days notice must be provided to the parties and the public before the court makes a determination to provide electronic access under this rule. Notice to the public may be accomplished by posting notice on the court’s Web site. Once issued, a copy of the order must also be posted on the Web site.”</p> <p>Section 10.3.1 (page 32-35): To clarify the section and aid the reader, the following sentence has been added to the end of the first</p>

	Commentator	Position	Comment	Response
			<p>identifying as confidential, records that have been sealed by the court. This language can mirror the language in 10.3.2. It is problematic not to include such an important section in the body of the paragraph that deals specifically with criminal law records. Another solution would be to move section 10.3.2 in front of 10.3.1 and add in a sentence that indicates it applies to all records regardless of their nature (family, civil, criminal etc...). The problem is really one of perception and location. It appears that you have listed all of the “confidential” material and there is no reference to documents protected by Evidence Code section 1040 <i>et seq.</i> which are generally among the most sensitive and deserving of protection. One must read through several categories, which do not relate to criminal law, before happening upon the protection for sealed documents.</p> <p>Section 10.3.1 (page 34): The Judicial Council may wish to include a sentence in section 2 regarding the exemption of judicially sealed search warrants from disclosure, which does extend until after the warrant is executed.</p> <p>Section 10.3.2 (page 44): The Judicial Council may wish to clarify what is meant by “Felony, except capital felony, with court records the initial complain 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.” This is extremely confusing and with the merger of municipal and superior courts, appears to be extraneous. One would hope that these important records including change of plea would not be destroyed within 5 year as they are priorable and</p>	<p>paragraph of Section 10.3.1:</p> <p>“Sealed records, including those that fall under Evidence Code § 1040 <i>et seq.</i>, are discussed in Section 10.3.2, below.”</p> <p>Section 10.3.1 (page 34): Penal Code § 1534(a) provides that executed search warrants shall be open to the public: “Thereafter, if the warrant has been executed, the documents and records shall be open to the public as a judicial record.”</p> <p>Section 10.3.2 (page 44): The committee disagreed with this comment. The quoted language is not present in Section 10.3.2, but is present on page 44, in Section 11.4.1. Here, the language referenced in the comment is a direct quote from the statute, specifically, Government Code § 68152(e)(3). Hence, it should not be changed in the TCRM, but should accurately reflect the language of the statute as it currently does.</p>

	Commentator	Position	Comment	Response
			<p>should be treated differently than other felony cases. If this section has been misread, your consideration is requested in making the language more comprehensible.</p> <p>Section 10.3.2 (page 48): The Judicial Council may wish to expand the length of time that court report notes (transcripts) are retained, especially in life cases as the post conviction writ proceedings generally continue for upwards of 20 years after conviction.</p> <p>I sincerely appreciate this opportunity to comment on this important manual and commend you on the work you have done thus far.</p>	<p>Section 10.3.2 (page 48): Changes in the retention period for specific documents would require an amendment to Government Code § 68152, and are thus beyond the scope of the TCRM.</p>
7.	<p>Michael D. Schwartz Special Assistant District Attorney Ventura County District Attorney Ventura, CA</p>	N	<p>Thank you for the opportunity to comment on the draft Trial Court Records Manual. My concern is with the minimum period of records retention listed in the chart on pages 42-44. Many misdemeanor and felony cases can be destroyed after only 5 or 10 years, and domestic violence restraining order may be destroyed 60 days after their expiration.</p> <p>These periods are too short given the frequent need for records beyond the time limits provided. For example, prior convictions may be alleged for enhancement purposes under Penal Code sections 666, 667, 667.5, etc. The documents needed to prove such priors would include the accusatory document (complaint, information or indictment), waiver of constitutional rights form, and minute orders. Prior convictions may be used in any criminal or civil cases to impeach the credibility of a witness, with the age of the conviction just one of several factors for the court to consider in terms of admissibility. Challenges to prior convictions by way of habeas corpus or petition for writ of error <i>coram nobis</i> may</p>	<p>This suggestion would require a change to existing law and is beyond the scope of the manual.</p>

	Commentator	Position	Comment	Response
			<p>be made years after the conviction, at which time the court files are needed for the court to address the validity of the conviction. In criminal and civil cases of domestic violence, documentation of prior restraining orders may be essential to establish an ongoing pattern and history of violence.</p> <p>I recognize that these periods are dictated by Government Code section 68152. I request that the Judicial Council either seek legislation to increase the time periods, or that the Trial Court Records Manual provide that the records be maintained electronically for a longer period, e.g., 20 years after the paper files are destroyed.</p>	
8.	<p>Superior Court of Marin County San Rafael, CA By Kim Turner, Executive Officer</p>	NI	<p>Page 43 – Paternity Change: under Special Case Type Characteristics. <i>Delete the entire definition and replace:</i> Fam. Code 7643, subd. (a) Records in Uniform Parentage Act proceedings, except the final judgment are not open to the public.</p> <p>Pursuant to Fam. Code Section 7643 (b) Parties to the action, attorneys of record or upon written consent as defined can inspect the court file.</p> <p>Page 43 – Real Property other than Unlawful Detainer: under Minimum Retention Period. <i>Change to:</i> Retain permanently if the action affects title or an interest in real property, otherwise 10 years.</p> <p>Page 44 – (new section) Dismissed Felony: There currently is not a code section that addresses felonies that are dismissed. CARM – Court Administration Reference Manual 2005 Edition Section 14.80 Records Management. FAQ 4.0 Felony Cases: Retention for dismissed felonies</p>	<p>Page 43 – Paternity: The committee agreed with this comment. This item has been revised to refer to both (a) and (b) of Family Code section 7643.</p> <p>Page 43 –Real Property other than Unlawful Detainer: under Minimum Retention Period. The committee agreed with this comment and has revised the text.</p> <p>Page 44 – (new section) Dismissed Felony: The committee agreed that a new section should be added on this subject. It has been added to the appendix.</p>

	Commentator	Position	Comment	Response
			<p>should be have a retention of 75 years; the same as a felony under 68152(e)(2). http://serranus.courtinfo.ca.gov/reference/carm/carm_manual.pdf.</p> <p>Page 44 – (new section) There currently is not a code section that addresses felonies that are reduced to misdemeanors. CARM – Court Administration Reference Manual 2005 Edition Section 14.80 Records Management. FAQ 4.0 Felony Cases: Felonies reduced to misdemeanors should follow retention for applicable misdemeanor. http://serranus.courtinfo.ca.gov/reference/carm/carm_manual.pdf</p> <p>Page 45 – Misd. Alleging a violation of the H&S 11357 (b-e)</p> <p><i>Need Clarification:</i> The date of conviction or date of arrest if no conviction was confusing for some courts to determine when to calculate a destruction date.</p> <p><i>Change</i> under Special Case Type Characteristics: OCG opinion from Arturo Castro on 6/14/10 – not a formal response. Should get a formal opinion. Can forward email at your request.</p> <p>Special Case Type Characteristics: <i>Add:</i> If all terms and conditions of probation have not been met and all fines have not been paid, the records should not be destroyed.</p> <p>Page 49 – Judgments in msd., infractions, limited judgments... Change under: Special Case Type Characteristics: <i>Add:</i> Gov. Code Section 68152(k)(2)- retention of the court record to be extended: Upon application and order for renewal of the judgment to the</p>	<p>Page 44 – (new section): The committee agreed that a new section should be added on this subject. It has been added to the appendix.</p> <p>Page 45 – Misd. Alleging a violation of the H&S 11357 (b-e): The committee agreed that a new section should be added on this subject. It has been added to the appendix.</p> <p>Page 49 – Judgments in msd., infractions, limited judgments. The committee agreed and made this change.</p>

	Commentator	Position	Comment	Response
			<p>extended time for enforcing the judgment.</p> <p>Page 50 – 11.4.2 “other case types” Add new records type Subpoenaed Records (EC 1560(d)). Discussion: this could go under court records designated confidential as well (appendix I) as a cross-reference: <i>Add:</i> under Recommended Retention Period - Unless admitted as evidence or required as part of the record:</p> <ul style="list-style-type: none"> • Original subpoenaed records should be returned to the custodian of records at the conclusion of trial/hearing • Copies of subpoenaed records should be destroyed at the conclusion of trial/hearing <p>Page 53 – Court Records Designated Confidential by Statute... Add new records type: Subpoenaed Records (EC 1560(d)) My suggestion is to add it under the heading “GENERAL” since subpoenaed records can be for any case type. <i>Add code section in second column:</i> Evidence Code Section 1560 (d). <i>Add specifics in third column:</i> Unless the parties to the proceeding otherwise agree, or unless the sealed envelope or wrapper is returned to a witness who is to appear personally, the copy of the records shall remain sealed and shall be opened only at the time of trial, deposition, or upon direction of the judge.</p> <p>Page 54 – Under Civil Law: Missing item 11 - Change the numbering sequence in first column.</p> <p>Page 58 –Under Criminal Law: Item 34 is blank. Change the numbering sequence in first column.</p>	<p>Page 50 – 11.4.2 “other case types:” The committee agreed with this comment and added this information.</p> <p>Page 53 – Court Records Designated Confidential by Statute or Rule: The committee agreed with this comment and added this information.</p> <p>Page 54 – Under Civil Law: The committee agreed with this comment and has fixed the chart.</p> <p>Page 58 – Under Criminal Law:</p>

	Commentator	Position	Comment	Response
				The committee agreed with this comment and has fixed the chart.
9.	Superior Court of Monterey County By Margaret Corioso, Operations Manager	A	<p>COMMENT 1: Page 1, paragraph 2 states “the AOC, in collaboration with trial court presiding judges.prepare, maintain and distribute a manual providing standards and guidelines, etc.”. However, on page 2, paragraph 4 it states “the Judicial Council shall adopt rules to establish standards and guidelines for the creation, maintenance, reproduction, and preservation of trial court records.”</p> <p>For consistency purposes, it is recommended that the language be consistent as to who developed and published the document.</p> <p>COMMENT 2: Page 4, Section 1.4: Our Court agrees and likes the information provided in this section.</p> <p>COMMENT 3: Page 6, Section 1.5 Key Definitions: Court Record: What is definition of “filed”? How do courts determine what documents are filed vs. received?</p> <p>COMMENT 4: Page 9, Section 3.1, first paragraph. Remove ‘by staff’ in the first sentence.</p> <p>COMMENT 5: Page 9, Section 3.2. For consistency spell out trial court executive officer in last sentence of this paragraph.</p>	<p>COMMENT 1: California Rules of Court, rules 10.850 and 10.854 were adopted by the Judicial Council as the constitutional body authorized to approve rules of court for trial court administration in California. The rules created the requirement to develop standards and guidelines for records management creation, maintenance and reproduction and authorized the Administrative Office of the Courts to collaborate with the trial courts to produce the records manual. The Judicial Council did not develop or publish the manual, but created the requirement to do so.</p> <p>COMMENT 2: The committee appreciates the support.</p> <p>COMMENT 3: The committee agreed that finding common definitions of “filed” and “received” is difficult. The committee may seek to clarify this issue in future versions of the manual.</p> <p>COMMENT 4: The committee agreed with this comment and made this change.</p> <p>COMMENT 5: The committee agreed with this comment and made this change.</p>

	Commentator	Position	Comment	Response
10.	Superior Court of Placer County By Jake Chatters, Executive Officer	NI	<p>Thank you for the opportunity to review the proposed records manual. The development of a consolidated source of information for court records management is a worthwhile undertaking and it's obvious that great care was taken in constructing this initial version.</p> <p>The Committees specifically requested comment on potential existing training materials that may support Judicial Branch education. Although not a court-specific training, the Court Clerk's Association has developed and provides records management training classes for court staff. Staff who recently attended these sessions returned with extensive materials and training directly relevant to the specific job duties of our court records staff. Areas covered include: what is an official court record, organizing records, retrieving records, type of media records may be stored on, retention periods, destruction requirements, sampling methods, and confidential and sealed records.</p> <p>The Committee may wish to contact the Court Clerk's Association to request a full copy of their materials.</p> <p>Thank you again for the opportunity to comment.</p>	<p>The committee thanks the commentator for this suggestion. It is contemplated that future versions of the manual could include guidance or information on effective training programs. The Court Clerk's Association resources will be considered for inclusion at future manual updates.</p>
11.	Superior Court of Riverside County By Sherri R. Carter, Executive Officer	AM	<p>1. I would eliminate all parts of the manual that are not specifically procedural. For example, I don't think background information is necessary in a manual; it could be included in a cover memo. Why do we need to cover how new versions will be handled or the purpose of the manual? I also wonder why we need explanations of information related to e-filing (page 12) since this is a Records Manual and electronic records storage is part of 6.1.2.</p>	<p>1. The committee did not agree that the manual should be so narrowed, particularly for this first version. The background and other explanatory materials are useful because they place the specific sections of the manual in a broader context of records management. Also, particularly in this first version of the manual, it is important for court personnel and others reading the manual to understand how this version will</p>

	Commentator	Position	Comment	Response
			<p>2. I would include various appendices at the end. Appendix 1 could be definitions, Appendix 2 could be the related CRC, Appendix 3 could be the court records designated confidential by statute or rule grid, Appendix 4 could be the schedule of records retention and destruction grid (both grids are very helpful and my favorite part, by the way!!).</p> <p>3. The procedural style used in Section 7 for Exhibits Management and Section 10.3 for Confidential and Sealed Records is more like a manual and I find it more helpful than the informational style in the earlier sections.</p> <p>You have done a wonderful job in developing the first Records Manual. Thank you very much for your hard work and effort. I hope my comments are helpful.</p>	<p>be expanded and updated over time.</p> <p>2. The Appendix has already been used, as noted, for providing a list of court records designated as confidential. Some of the other matters mentioned in the comment could be placed in the Appendix, but appear to fit more readily into the chapters on the topics involved. When the committee considers additional topics to include in future versions of the manual, it will also consider various configurations and formats for future iterations, based on comments received from manual users.</p> <p>3. This comment will be considered in connection with the revisions to Version 1 and subsequent versions of the manual.</p> <p>The commentator’s remarks and comments are appreciated.</p>
12.	Superior Court of Sacramento County By Chris Stewart, Director, CCMS Program Office	NI	<p>The Superior Court of California, County of Sacramento has reviewed the proposed Court Administration: Trial Court Records Manual (SP10-02) and has the following comment to submit:</p> <p>In response to the Draft Manual of the California Trial Court Records Manual (hereinafter “Draft Manual”), it is the position of the Sacramento Superior Court that while the Draft Manual provides</p>	<p>For the reasons explained in the Introduction to the manual (Section 1) and the response</p>

	Commentator	Position	Comment	Response
			<p>an excellent source for the existing rules and statutes that have already been promulgated by the Legislature relating to records management, the contents relating to electronic case files and data are cause for significant and paramount concern.</p> <p>The comments herein are not made in respect to the previously enacted rules and statutes, but rather to the implied mandate that all 58 California courts must move to employing electronic court records and use CCMS to manage those electronic court records. The Draft Manual does not contemplate or address the impact on the individual courts, the fiscal ramifications, or the magnitude and degree of change that each of the 58 courts would face if each were compelled to employ electronic case files and/or data. Additionally, the Draft Manual does not address how a court could mitigate the multitude of changes that would be necessitated.</p> <p>Many courts do not have the capacity, financial means, or desire to move towards electronic records. This new, proposed methodology would create huge and unprecedented changes in existing business processes for many courts. For some courts, such as Sacramento, technology is part of our daily operation and we can use technology to create efficiencies. But many smaller courts do not utilize technology and have streamlined their manual processes to the point that technology would actually create more work than it would save and actually cost more money than their current streamlined processes do. These types of issues have not been contemplated or addressed in the Draft Manual.</p>	<p>below, the committee thinks the commentator’s concerns about the contents of the manual are misplaced.</p> <p>The comments are based on incorrect assumptions about the purpose and scope of the manual. The manual is intended to provide for all courts: 1) a statement of the current law relating to court records, and 2) useful guidelines and suggestions for best practices that may be used in the management of court records. The manual does not contain an “implied mandate.” Although the manual recognizes that the next major stage of court records management involves a shift from paper to electronic records, and provides assistance and guidance to those courts making this shift, it does not mandate any particular timelines or steps that courts must pursue at this time. Those issues are beyond the scope of the manual.</p> <p>The court administrators who have prepared the manual are fully aware of and highly sensitive to the different fiscal and technical capacities of various local courts. The manual addresses these differences by articulating standards that apply to both to paper records and electronic records. The manual does not require any trial court to use new technologies or modify current practices. But for courts that are capable of and want to achieve the efficiencies that are available through technology, the manual provides assistance.</p>

	Commentator	Position	Comment	Response
			<p>In addition, the role of the Administrative Office of the Courts (AOC) as to any court's effort and solution as to records management has not been addressed. Even with the implementation of CCMS, as mentioned in the Draft Manual, the impact and level of change that would be thrust upon the courts by a mandate requiring electronic case files may well be so significant and onerous that such would substantially outweigh any benefit of converting to electronic case files.</p> <p>The sheer time devoted to crafting this Draft Manual should mandate the necessity of clearly understanding the impact these changes would create in the individual courts. To that end, Sacramento Superior Court recommends the following:</p> <ul style="list-style-type: none"> • Create a working group comprised of court experts from small, medium, and large courts, appointed by the courts' Presiding Judges, to analyze the impact of moving courts to electronic records. • Seek input from the CCMS Executive Committee that is to be formed as regards to CCMS and electronic records management to ensure that the guidelines within the Draft Manual are consistent with what CCMS can actually provide. • Direct the AOC to define, and cite authority that confers its role in, the management of electronic 	<p>The commentator is correct that the manual does not attempt to address the specific issues that apply to small courts' decisions to adopt particular records management practices or the AOC's role in courts' efforts and solutions as to court records management. These and many other similar matters are beyond the scope of the manual.</p> <p>With respect to the superior court's three specific recommendations:</p> <ul style="list-style-type: none"> • The superior court's suggestion that a working group appointed by the Presiding Judges be formed to analyze the impact of moving to electronic records is beyond the scope of the manual and should be addressed by staff to the Trial Court Presiding Judges Advisory Committee. If any such initiative is undertaken, it would be appropriate also to have the Court Executives Advisory Committee involved. • In preparing the manual, efforts have been made to ensure the guidelines are consistent with the technology that is being developed in CCMS. Additional consultation with the CCMS Executive Committee is a good idea. • This suggestion is beyond the scope of the manual. If the superior court wants to raise

	Commentator	Position	Comment	Response
			<p>records and determine if the AOC believes that it is going to provide a statewide technical solution to all of the courts.</p> <p>Thank you for providing us with an opportunity to review the proposed changes and submit comments.</p>	<p>such issues with the AOC, it should do so directly.</p>
13.	<p>Superior Court of San Diego County By Michael Roddy, Executive Officer</p>	AM	<p>Page 19: For the definition of juvenile delinquency cases, our court recommends language such as "A broad classification of cases filed against a minor for a violation of the law".</p> <p>Page 36, Family and Juvenile Court Records, Records that are confidential, Paragraph 1: There is no "therefor" contained in Welfare and Institutions Code section 827(a)(1)(P), but it has been included in the quote from this section. Also, the citation to "Welf. & Inst. Code § 676" is missing a comma.</p> <p>Page 37, Paragraph 4: This paragraph appears to contain an erroneous citation to statutory authority. Paragraph 3 refers to the confidentiality of a child custody evaluator's report and correctly cites to Family Code section 3025.5 and Family Code section 3111. Paragraph 4 specifically refers to the confidentiality of a recommendation as to custody of or visitation with a child submitted by a mediator and correctly cites to Family Code section 3025.5 but incorrectly cites to Family Code section 3111. A report by an evaluator and a recommendation by a mediator are two different documents. While both are made confidential pursuant to Family Code section 3025.5, the statutory authority for each is separate and distinct. Family Code section 3111</p>	<p>Page 19: The committee agreed with this comment. The definition of "Juvenile Delinquency Cases" shall be changed as suggested to "A broad classification of cases filed against a minor for a violation of the law."</p> <p>Page 36: The committee agreed with this comment. The extraneous "therefor" has been removed. In addition, the citations in this paragraph have been corrected.</p> <p>Page 37, Paragraph 4: The committee agreed with this comment. Paragraph 4 of this section has been revised as suggested, to replace the reference to Family Code § 3111 with a reference to Family Code § 3183.</p>

	Commentator	Position	Comment	Response
			<p>pertains only to child custody evaluator's reports while the statutory authority for recommendations by a mediator is Family Code section 3183. Therefore, the reference to Family Code section 3111 at the end of paragraph 4, on page 37, should be revised by deleting section 3111 and replacing it with section 3183.</p> <p>Our court would also suggest that the manual include a new paragraph between paragraphs 4 and 5 stating as follows:</p> <p>"Written statements of issues and contentions by counsel appointed for child: These written statements must be kept in the confidential portion of the family law file and are only available to the court, the parties, their attorneys, federal or state law enforcement, judicial officers, court employees or family court facilitators for the county in which the action was file (or employee or agent of facilitator), counsel for the child and any other person, upon order of the court, for good cause. (Fam. Code, §§ 3025.5, 3151(b).)"</p> <p>Page 38: The Probate confidential records list on pages 38 should be revised. Although it is not an exhaustive list, the list should include some of the frequently seen confidential documents as follows:</p> <ol style="list-style-type: none"> 1. Form GC-312 is the Confidential Supplemental Information Form required by Probate Code section 1821, not the Confidential Screening Form noted in item #2 as both GC-314 and 312. In order to avoid confusion, the forms should be listed separately. 2. There are a few other reports that should be noted in item #3 in addition to the initial 	<p>The committee agreed with this comment. The suggested paragraph has been added between current paragraphs 4 and 5.</p> <p>Page 38: The committee agreed with the proposed changes 1-3. The suggested corrections and additions have been included in the appendix of the TCRM on confidential records.</p>

	Commentator	Position	Comment	Response
			<p>conservatorship investigation reports under Probate Code section 1826. These reports include review investigation reports under Probate Code section 1851(e) and limited conservatorship investigation reports under Probate Code section 1827.5.</p> <p>3. Item #3 also addresses guardianship reports. That section needs to include the guardianship status report that is required annually per Probate Code section 1513.2 and California Rules of Court, rule 7.1003.</p> <p>4. Finally, the section should include the confidential financial statement under Probate Code section 2620(c)(7) that requires accounting exhibits and attachments with personal information to be kept in a confidential envelope. This is often missed and can expose personal financial information to the public.</p> <p>Page 58: This page should be modified incorporating the changes recommended for page 38 so the reference lists match.</p> <p>Page 46: The summary of Welfare & Institutions Code section 827 is a bit simplistic. It does not clearly define who may view the file and does not mention that some of them may also receive copies of the file. Also, a Welfare & Institutions Code section 602 file may never be sealed or destroyed if the minor committed any of a number of specified offenses. (Welf. & Inst. Code, §§ 781, 826.) If the minor did not commit one of the specified offenses, the file "shall be destroyed by order of the court" when the person who is the subject of the file reaches the age of 38 years unless for good cause the court determines that the juvenile record shall be</p>	<p>Page 58: The changes have been incorporated into the appendix.</p> <p>Page 46: Welfare & Institutions Code section 827 is too long to include in its entirety in the TCRM's record retention schedule. Accordingly, the following sentence will be added to the "Special Case Type Characteristics" entry for the relevant categories: "Please refer to Welfare & Institution Code, section 827, for details regarding access to these records."</p> <p>The categories to be revised are:</p> <ul style="list-style-type: none"> • (1) Dependent (Section 300 of the Welfare and Institutions Code)

	Commentator	Position	Comment	Response
			retained or unless the record is released to the person. (Welf. & Inst. Code, § 826.) The required destruction does not relate to whether the record was previously sealed.	<ul style="list-style-type: none"> • (2) Ward (Section 601 of the Welfare and Institutions Code)) • (3) Ward (Section 602 of the Welfare and Institutions Code)
14.	Superior Court of Santa Clara County By David H. Yamasaki, Executive Officer, and Robert Oyung, Chief Technology Officer	NI	<p>On behalf of the Superior Court of California, County of Santa Clara, we respectfully submit our feedback to the proposed “Trial Court Records Manual”.</p> <p>General Feedback The “Trial Court Records Manual” provides a comprehensive compilation of statutes and Rules of Court which govern trial court records management. It has the potential to be a useful reference as well as a repository for best practices and practical suggestions that can be leveraged and utilized across the trial courts.</p> <p>With the recognition that this is the first initial version of the document, we feel that it is successful in consolidating disparate existing material but falls short of providing practical suggestions that can be implemented.</p> <p>It is important to consider those suggestions below which can be incorporated prior to publication of Version 1 of the document.</p> <p>It is imperative that Version 2 of this document be published relatively quickly (within the next six months) and be updated and enhanced to include the key missing practical information described below which require more time to prepare.</p>	<p>General Feedback The committee appreciates the support expressed by the commentator.</p> <p>The committee agreed that there are sections of the manual that should be developed fairly soon and included in Version 2.</p>

	Commentator	Position	Comment	Response
			<p>Feedback on specific sections</p> <p>1. Section 4.2: Number Schematic for Court Records</p> <p>This section provides several suggestions for creating a case numbering system. However, since all courts already have long established case numbering systems which are tightly integrated into their operational processes and case management systems, the applicability, usefulness, and practicality of the suggestions is unlikely.</p> <p>Recommendation: Begin section 4.2 with an acknowledgement that all Courts already have a case numbering system in place. Mention that if any Courts are considering a change or enhancement to their numbering system, then the following section provides some suggested guidelines. Without this acknowledgement, the suggestions come across as disconnected from the existing court environment.</p> <p>2. Section 4.4: Electronic Format Filing Protocols</p> <p>Although this section is intended to discuss e-filing protocols and standards, the majority of the content covers the advantages and disadvantages of e-filing. Only at the end of the section, is there a link to the “NCSC Technology Standards”</p> <p>Recommendation: Change the heading on Section 4.4.1 “E-Filing Standards” to “E-Filing Overview”. Add a heading Section 4.4.2 “E-Filing Standards” which precedes the link to the “NCSC Technology Standards”.</p> <p>3. Section 4.5 Court Record Location Tracking</p>	<p>Feedback on specific sections</p> <p>1. Section 4.2: Number Schematic for Court Records</p> <p>The committee agreed with the proposed changes. Based on other comments, it might also be useful to note that any court considering changing their case numbering system should consider waiting or adopting the numbering system used in CCMS (which might be described more completely in the manual).</p> <p>2. Section 4.4: Electronic Format Filing Protocols</p> <p>The committee agreed with the proposed changes and made the recommended changes.</p> <p>3. Section 4.5 Court Record Location</p>

	Commentator	Position	Comment	Response
			<p>The section describing “RFID Technology” is technically incorrect.</p> <p>Recommendation: <u>Please see Attachment A at the end of this document for suggested changes.</u></p> <p>4. Section 6.1.2 Electronic Records</p> <p>One of the major benefits of the changes in the legislation for modernizing the management of court records that will become effective on January 1, 2011 is to replace antiquated records management practices and recommendations with ones that reflect the utilization of new technologies and methods.</p> <p>However Section 6.1.2 “Electronic Records”, which should be the showcase of the “Trial Court Records Manual” only consists of a bulleted list of eight technology options for record storage. This falls extremely short of the potential value that this document could provide.</p> <p>Recommendation: Version 2.0 of the “Trial Court Records Manual” should include much more extensive materials in this section that cover topics such as the following:</p> <ul style="list-style-type: none"> • Recommendations and best practices for electronic file back-up, storage, and preservation. • Recommendations for specific file formats that should be used for case files to ensure current and future compatibility within the trial courts and when exchanging data with justice partners. • Recommendations for technology monitoring 	<p>Tracking The committee agreed with the proposed changes and made the recommended changes.</p> <p>4. Section 6.1.2 Electronic Records</p> <p>The committee agreed that section 6.1.2 on electronic records needs to contain much more extensive materials in the next version of the manual.</p> <p>The committee agreed with these future topics of consideration for inclusion in subsequent versions of the manual.</p>

	Commentator	Position	Comment	Response
			<p>and refresh to ensure that existing electronic files will be retrievable and viewable in the future and that there is careful consideration regarding the continual migration from obsolete technology to current supported technology.</p> <p>The Superior Court of California, County of Santa Clara would be willing to work closely with the AOC and other trial courts in the creation of the recommendations for section 6.1.2.</p> <p>5. Section 11.1.1 Court Records Sampling Program California Rules of Court 10.855 (f) (2) requires that the Courts preserve a “subjective sample” of court records but does not provide any guidance on how to select that sample.</p> <p>Recommendation: The “Trial Court Records Manual” should include some suggestions and best practices for how to identify and select the “subjective sample” of court records to comply with this requirement.</p> <p>6. Section 1, Introduction</p> <p>The last paragraph of the introduction states “...this icon will precede sections containing optional ideas, policies and programs...” Typically “policies” are not optional.</p>	<p>The committee appreciates the offer of assistance and cooperation in developing section 6.1.2.</p> <p>5. Section 11.1.1 Court Records Sampling Program The committee agreed with this comment. Section 11.1.1 will be revised to include additional information on sampling techniques, reporting requirements, notice requirements and the Records Management Clearinghouse located at the AOC. In addition, the committee plans to solicit public comments on suggested practices for identifying and selecting “subjective samples” of court records in connection with subsequent versions of the manual.</p> <p>6. Section 1, Introduction</p> <p>The committee agreed with the proposed changes and made the recommended changes.</p>

	Commentator	Position	Comment	Response
			<p>Recommendation: Remove the word “policies” from that sentence.</p> <p>Conclusion We are pleased to see this first version of the “Trial Court Records Manual”. It is currently a very good comprehensive consolidation of important records management statutes and Rules of Court. It has the potential to be a very important reference and strategy document if major sections that could not be included in Version 1.0 can be included in Version 2.0 in a timely manner.</p> <p style="text-align: center;">Attachment A</p> <p>Below are suggested changes for the “RFID Technology” overview in section 4.5.1 Paper Record Tracking. Deletions are in strike through. Additions are in <u>bold and underlined</u>.</p> <p>RFID Technology Radio frequency identification device systems are a “high tech” and more expensive method for locating and tracking files. Like bar code technology, RFID tags are created and attached to file folders. RFID tags are intelligent <u>“active”</u> bar codes that can talk to <u>exchange information with</u> a networked system to track every file. RFID tracking solutions save time by providing continuous, automatic tracking of files and other items as they move around the courthouse <u>and pass through an area where an RFID reader is present. Like a traditional barcode, an RFID tag must be read. However, an RFID tag does not need to be physically scanned. It can be detected and read as it passes by a reader which can be mounted on a wall and up to 25 feet away.</u> Staff members are relieved of the</p>	<p>The suggested changes have been made to the “RFID Technology” overview in the manual.</p>

	Commentator	Position	Comment	Response
			<p>responsibility to scan files as they are automatically monitored at all times by the technology, and their locations are typically updated in real time. Records staff can locate files at any time by checking the tracking database on line.</p> <p>This technology has been cost prohibitive in the past, but in recent years the cost has been coming down. If <u>In situations where it is</u> affordable, this technology is ideal <u>could be beneficial</u> for <u>small to</u> medium and large court systems with multiple locations.</p>	
15.	<p>Superior Court of Siskiyou County By Larry Gobelman Executive Officer</p>	NI	<p>I wish to thank the Records Committee, CEAC, and COCE for their work on the Records Manual. In particular, I appreciate the change from prior drafts designating the sections that are “Standards” for mandatory compliance by trial courts, as contrasted with sections that are ideas, policies and programs, and best practices. I would recommend that the RM have a separate section for “Standards” to make it more usable for trial courts in complying with mandatory requirements and to thus lessen the possibility of overlooking a mandatory requirement. Ideally, I would prefer a manual that is strictly constructed to address only “standards and guidelines” per what appears to be the intent of CRC 10.854 rather than including extraneous materials for ideas and programs. However, should the Judicial Council not agree with this interpretation/recommendation, then, at a minimum, an index referencing the sections that are mandatory requirements or “standards” for the trial courts to be considered to be in compliance with CRC 10.850 is requested.</p> <p>Thank you for the opportunity to provide a response.</p>	<p>The committee disagreed with this comment. The committee decided to develop a resource guide and single reference manual to help trial courts ensure that they are 1) meeting legal requirements, and 2) benefitting from initiatives that other courts have developed that are considered best industry practices. The committee also prefaced their intentions on page 1 of the manual to assist users distinguish between mandatory requirements and optional features of court records management programs, by placing a light bulb icon before sections containing optional ideas, policies and programs and best industry practices. Sections not preceded by this icon contain mandatory requirements. Sections containing mandatory requirements contain links to the relevant statutes or rules.</p>

	Commentator	Position	Comment	Response
16.	Superior Court of Ventura County By Cheryl Kanatzar, Deputy Executive Officer	A	No specific comment.	No specific response required.
17.	The State Bar of California, Committee on Administration of Justice San Francisco By Saul Bercovitch, Legislative Counsel	NI	<p>The State Bar of California’s Committee on Administration of Justice (CAJ) supports the drafted sections of the <i>Trial Court Records Manual</i> (TCRM) as a valuable compendium of standards and guidelines which will assist the courts and the public to have complete, accurate, and accessible court records.</p> <p>In response to the request for input on Fee and Fee Waiver Guidelines for Requested Records (Section 10.4) and the Court Record Creation Process (Section 4.1), CAJ believes that modernization of public records should not be attained at the expense of the public’s accessibility to court records. CAJ recognizes there are costs involved in, and savings to be derived from, electronic filing and electronic access to court records and CAJ considers it essential that a policy promoting public access be foremost in the development of the guidelines and standards for court record creation and fee and fee waiver guidelines. For example, during development of these guidelines, CAJ recommends consideration of whether it is feasible to make electronic indices of court records accessible to the public remotely, free of charge, or for a nominal fee (where access to those records is not restricted by law).</p> <p>CAJ looks forward to having the opportunity to review any proposed substantive changes and additions to the TCRM, including a draft of version 2.0 of the TCRM.</p>	17.

	Commentator	Position	Comment	Response
18.	Wei C. Wong	NI	Spending money for uniform California system is probably a better use of money. Eliminate all these local rules and county rules.	No specific response is required.



Holme Roberts & Owen LLP
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VIA HAND DELIVERY AND E-MAIL

SAN FRANCISCO

September 30, 2010

BOULDER

Ms. Camilla Kieliger
Judicial Council
455 Golden Gate Avenue
San Francisco, CA 94102

COLORADO SPRINGS

Re: Comments on Trial Court Records Manual (Item SP10-02)

Dear Ms. Kieliger:

DENVER

On behalf of the California Newspaper Publishers Association, the First Amendment Coalition, Californians Aware, and Courthouse News Service (collectively, the “Press Groups”), we are pleased to make this submission in response to the Judicial Council’s invitation for written comments on the Trial Court Records Manual (the “Manual”).

DUBLIN

The Press Groups have a particular interest in the aspects of trial court record creation and maintenance that affect the media’s ability to access court records in a timely manner and therefore focus their comments on the court record creation process (Section 4.1), e-filing (Section 4.4), press access to court records (proposed new section within Chapter 10), and case numbering systems (Sections 4.2 and 4.3).

LONDON

I. About the California Newspaper Publishers Association, the First Amendment Coalition, Californians Aware, and Courthouse News Service

LOS ANGELES

The California Newspaper Publishers Association is a nonprofit trade association that represents the mutual interests of the state’s newspapers, from the smallest weekly to the largest metropolitan daily. Its 850 daily, weekly, and student newspaper members depend on quick and complete access to court records to inform the public about criminal and civil cases and the judicial system.

MUNICH

PHOENIX

The First Amendment Coalition is an award-winning, nonprofit public interest organization dedicated to advancing free speech, more open and accountable government, and public participation in civic affairs. It serves the public, public servants, and the media in all its forms. It is committed to the principle that government is accountable to the people, and strives through education, public advocacy, litigation, and other efforts to prevent unnecessary government secrecy and to resist censorship of all kinds.

SALT LAKE CITY

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Californians Aware is a nonprofit organization established to help journalists and others keep Californians aware of what they need to know to hold government and other powerful institutions accountable for their actions. Its mission is to support and defend open government, an enquiring press, and a citizenry free to exchange facts and opinions on public issues.

Courthouse News Service (“Courthouse News”) is a legal news service for lawyers and the news media that focuses on civil lawsuits, from the initial filing on through to appellate rulings. Other news outlets increasingly look to Courthouse News to provide them with information about newsworthy civil filings, which puts Courthouse News in a position similar to that of a pool reporter. Courthouse News’ media subscribers include such well-known entities as the *Los Angeles Times*, the *San Jose Mercury News*, the *Houston Chronicle*, *The Dallas Morning News*, *The Boston Globe*, the *Detroit Free Press*, *The Atlanta-Journal Constitution*, and *Forbes*.

Courthouse News covers the major civil courthouse in *every* county in California on a regular basis, as well as in major cities across the nation. This extensive on-the-ground experience has given Courthouse News a first-hand look at how a court’s intake procedures can affect media access to newly filed documents.

II. General Comments

As an initial matter, the Press Groups applaud the recognition in the Manual that providing a “complete, accurate, and *accessible* court record, created and *available in a timely manner*” is a “basic role[]” of the judiciary. Manual at 3 (emphasis added).

This recognition is, of course, consistent with the First Amendment right of access to court documents, which has been repeatedly recognized by the Ninth Circuit. *See Oregonian Pub. Co. v. U.S. Dist. Court*, 920 F.2d 1462, 1465 (9th Cir. 1990); *Associated Press v. U.S. District Court*, 705 F.2d 1143, 1145 (9th Cir. 1983). Courts have also emphasized that access to court records must be timely. *See, e.g., Associated Press*, 705 F.2d at 1147 (even short delays constitute “a total restraint on the public’s first amendment right of access even though the restraint is limited in time, and are unconstitutional unless the strict test for denying access has been satisfied”); *accord, e.g., Grove Fresh Distrib., Inc. v. Everfresh Juice Co.*, 24 F.3d 893, 897 (7th Cir. 1994) (“[i]n light of values which the presumption of access endeavors to promote, a necessary

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corollary to the presumption is that once found to be appropriate, access should be immediate and contemporaneous”); *Globe Newspaper Co. v. Pokaski*, 868 F.2d 497, 507 (1st Cir. 1989) (“even a one to two day delay impermissibly burdens the First Amendment”).

This timely access is critical because of the unique role the court record plays in providing a window into the processes of an open government. Or, as one judge put it, “In order to maintain a working democracy, it is essential that the people, the final arbiters of all rights, have knowledge of the operations of their government, including the courts.” *Phoenix Newspapers v. Superior Court*, 418 P.2d 594, 600 (Ariz. 1966) (Bernstein, V.C.J., concurring).

Because few members of the public can observe the court’s activities directly, they learn what transpires in courthouses “chiefly through the print and electronic media,” which function as “surrogates for the public” in the context of access to judicial records and information. *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 572-73 (1980). Indeed, the vital nature of judicial activity has traditionally caused news reporters to cover the courts regularly and closely, often tracking the day’s developments from a press room in the courthouse itself. This courthouse beat typically involved the journalist’s end-of-day checking of designated media bins that contained the day’s newly filed civil complaints.¹

¹ As case-initiating documents, complaints have a special significance among judicial records that underscores the importance of prompt disclosure. As one federal district court recently explained:

[A] complaint ... is the root, the foundation, the basis by which a suit arises and must be disposed of. [A]long with a summons, it is the means by which a plaintiff invokes the authority of the court, a public body, to dispose of his or her dispute with a defendant. ... It *provides* the causes of action. ... It *establishes* the merits of a case, or the lack thereof. ... [W]hen a plaintiff invokes the Court’s authority by filing a complaint, the public has a right to know who is invoking it, and toward what purpose, and in what manner.

In re NVIDIA Corp., 2008 WL 1859067, at *3 (N.D. Cal. 2008); *accord In re Eastman Kodak Co.*, 2010 WL 2490982, *2 (S.D.N.Y. 2010) (“a complaint ... is a pleading essential to the

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Increasingly, however, the pressures on the modern court to operate like a moneymaking business entity seem to obscure the court's fundamental character as a public institution. Over the last twenty years in California, the ability of reporters to monitor the court's business has been restricted in moves – big and small – by individual courts that limit where journalists can go, when they can be there, and what they can see. In particular, while same-day access to newly filed court records used to be the norm, courts increasingly delay media access to new filings, often refusing to allow the press to see them until after any number of intake and other administrative procedures have been completed.

The “newsworthiness of a particular story is often fleeting,” *Grove Fresh*, 24 F.3d at 897, and given the vast amount of information competing for its attention, it is only while new court actions are still “current news that the public’s attention can be commanded.” *Chicago Council of Lawyers v. Bauer*, 522 F.2d 242, 250 (7th Cir. 1975). Thus, a court record that cannot be accessed on the day it is filed has a far lower chance of being reported on, which means a far lower chance of coming to the attention of interested members of the public. Given the extent to which the public depends on the press for information about what happens in the courts, the result can only be a less informed citizenry.

This Manual presents an excellent opportunity to repair the long-term deterioration of press access to California’s courts and clearly state that the court record is the public record, which must be kept open and accessible to the press in a prompt and complete manner.

III. Court Record Creation Processes (Section 4.1)

As a practical matter, delays in access to civil trial court records often stem from a court’s administrative intake procedures, although this need not be the case. Traditionally, courts put each day’s new filings into a designated press box that reporters

Court’s adjudication of the matter as well as the public’s interest in monitoring the federal courts”); *Vassiliades v. Israely*, 714 F. Supp. 604, 606 (D. Conn. 1989) (denying request to seal complaint: “The filing of the complaint is likely to be the first occasion that the public could become aware of the dispute”).

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could review at the end of the day. Increasingly, however, courts are interposing various administrative tasks between the filing of a document and its being made available to the press. For example, court staff may insist that they must first scan, docket, put in folders, verify, accept, or perform any number of other clerical processes before new filings will be made available for review, which almost always results in delays.

Ironically, given the speed with which information moves across the Internet, these delays come at the very moment in history when timely access is at a premium. *See, e.g.,* Jeff Jarvis, There is no hot news. All news is hot news, BuzzMachine (June 28, 2010), <http://www.buzzmachine.com/2010/06/28/there-is-no-hot-news-all-news-is-hot-news/> (“Hot news is ridiculously obsolete. What’s hot today? As Tom Glocer, head of Thomson Reuters, said, his news is most valuable for ‘milliseconds.’”); David Carr, Newsweek’s Journalism of Fourth and Long, N.Y. Times, Week in Review, May 24, 2009, at 1 (present news environment is “a time when current events are produced and digested on a cycle that is measured with an egg timer, not a calendar”); Eric Klinenberg, News Production in a Digital Age, 597 *Annals Am. Acad. Pol. & Soc. Sci.* 48, 54 (2005) (“The advent of twenty-four-hour television news and the rapid emergence of instant Internet news sites have eliminated the temporal borders in the news day, creating an informational environment in which there is always breaking news to produce, consume, and – for reporters and their subjects – react against.”). Even delays of 24 hours are therefore unacceptable, and access to newly filed documents in California trial courts is often delayed much longer.

Fortunately, these delays can be easily avoided simply by returning to (or maintaining) intake procedures that ensure the press has an opportunity to review newly filed civil actions at the end of the day on which they are filed, regardless of whether the various administrative tasks associated with intake have been completed.

A. Elements of Intake Procedures that Promote Access

The critical element of intake procedures that result in same-day access is the opportunity for interested news reporters to see new filings promptly after they are submitted to the court, instead of making reporters wait until docketing or other administrative intake procedures have been completed. This is often accomplished either by placing the day’s newly filed documents in a press box that can be accessed during a pre-arranged window of time at the end of the day, or by promptly scanning

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newly filed documents and making them immediately available through terminals at the courthouse, irrespective of whether the documents will later be made available for remote viewing over the Internet.

This fundamental principle is the same for courts that implement e-filing. Contrary to the popular assumption that speedy access to court records automatically flows from e-filing, the Press Groups' experience is that the implementation of e-filing often brings *delays* in access to newly filed civil actions because courts have chosen to make e-filed documents available only after various administrative tasks have been completed (*e.g.*, manually checking the filing, making it available for electronic review, etc.).² E-filing courts have typically surmounted these access problems in one of two ways:

1. Providing reporters with access to an electronic in-box on computer terminals at the courthouse through which records can be viewed as soon as they cross the electronic equivalent of the intake counter at the clerk's office, regardless of what administrative processing might remain to be done and/or whether the document has been made available for remote electronic viewing on a public web site. Variations of the electronic in-box have been successfully implemented in the United States District Courts for the Western District of Pennsylvania, the Northern District of Georgia, the District of New Jersey, the District of Minnesota, the Western District of Kentucky, and the Eastern District of Missouri. The Northern District of Illinois also used a similar in-box solution until recently, when it began making new civil complaints immediately available on PACER.
2. Printing out copies of e-filed cases (either as a standard practice or promptly upon a reporter's request), regardless of any processing tasks that may remain.

² A good example of the access delays that often accompany e-filing can be found in the King County Superior Court in Seattle, Washington. Traditionally, reporters who visited the court regularly had same-day access to paper filings behind the court's intake counter. After the court instituted e-filing, however, Courthouse News found that it could not access documents filed after about noon until the following day. Similarly, at the Eighth Judicial District Court in Las Vegas, Nevada, which switched to mandatory e-filing in early 2010, Courthouse News' reporter cannot see new complaints until they are at least a day old, and the delays are often longer.

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Courts that have implemented this kind of system include the Travis County District Court in Austin, Texas, the San Francisco Division of the United States District Court for the Northern District of California, the United States District Courts for the Western and Eastern Districts of Texas, the Northern and Southern Districts of Ohio, the Eastern District of Wisconsin, and the District of Minnesota.

While the Manual need not dictate a particular method of giving the press timely access to newly filed court records, the Press Groups respectfully urge that the basic requirement that intake procedures ensure same-day access to newly filed civil complaints be included in the Manual.

B. The Legal Basis for Building Immediate Access Into Intake Procedures

As courts develop and implement intake procedures, it is important to keep in mind that the right of access to court records attaches as soon as the record is submitted to the court and is not contingent on the completion of any particular administrative task. *See, e.g.*, Rule of Court 2.550(b)(1) (public has right of access to any document that has been “filed **or lodged** with the court”) (emph. added). California’s Rules of Court thus recognize that the public character of complaints and other documents submitted to the court comes not from the court’s taking any particular action with respect to the document, but from a person’s invoking the power of the judiciary by submitting it to the court. Courts have agreed that the right of access springs into being the moment a person “undertake[s] to utilize the judicial process.” *Bank of Am. Nat’l Trust & Sav. Ass’n v. Hotel Rittenhouse Assocs.*, 800 F.2d 339, 344 (3d Cir. 1986). The fact that a litigant has requested judicial relief is an event that is properly open to public scrutiny. “By **submitting** pleadings and motions to the court for decision, one ... exposes oneself [to] public scrutiny.” *Leucadia, Inc. v. Applied Extrusion Techs., Inc.*, 998 F.2d 157, 164 (3d Cir. 1993) (quotation omitted; emph. added).

Since the right of public access attaches at the moment a complaint or other document is submitted to the court, it is not appropriate to delay access on the ground that a particular record has not yet been fully processed, made available for electronic viewing, etc. This issue was the subject of recent litigation between Courthouse News and the elected clerk in Harris County, Texas. In that case, which Courthouse News reluctantly filed after repeated negotiation attempts failed to lead to a resolution, the clerk had begun requiring

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reporters to wait for new civil complaints to be processed and posted on the clerk's web site before they could be reviewed, which delayed their availability by several court days. In a preliminary injunction order that issued in July 2009, the United States District Court for the Southern District of Texas found that a 24- to 72-hour delay in access was "effectively an access denial and is, therefore, unconstitutional." The court also observed that:

There is an important First Amendment interest in providing timely access to new case-initiating documents. Defendants attempt to argue that providing Plaintiff with same-day access interferes with their important objective of "getting online and not in line." The Court acknowledges that Defendant's goal is also in the public interest. However, as Plaintiff argues, same-day access and online access are not mutually exclusive. Defendants may provide Plaintiff with same-day access to newly-filed petitions while working in furtherance of their goal to make documents available online.

Courthouse News Service v. Jackson, et al., 2009 U.S. Dist. LEXIS 62300, at *10-11, 14 (S.D. Tex. July 20, 2009).

By the same token, courts may not justify delays in access by tying access to the "filing" of a document and defining "filing" to mean not only that a document has been submitted to the court but also that certain administrative processes have been completed. Any technical definition of "filing" that results in the court's having possession of a document submitted in the context of the court's adjudicatory powers but that is categorically excluded from public access (even if only for a relatively short time) is antithetical to principles of access firmly established in California law and guaranteed by the First Amendment. *See, e.g., Associated Press*, 705 F.2d at 1147; *Grove Fresh Distributions*, 24 F.3d at 897; *Globe Newspaper Co.*, 868 F.2d at 507.

Again, whatever procedures for court record creation procedures are outlined or advocated in future versions of the Manual, the Press Groups urge the Judicial Council to use the Manual as an opportunity to educate court administrators about their obligation to ensure same-day access to newly filed civil actions by creating a mechanism for media access very early in the intake process.

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IV. E-Filing (Section 4.4)

Section 4.4 of the Manual is devoted to a fairly high-level discussion of the advantages and disadvantages of e-filing. Courthouse News has witnessed first-hand the implementation of numerous e-filing programs in courts throughout the country, and based on this experience the Press Groups suggest the inclusion of two primary observations in this overview. First, as noted, e-filing does not automatically improve access to court records and can actually delay access to court records unless specific procedures are adopted to protect against access delays. Second, e-filing programs operated by vendors can have serious disadvantages for courts and sometimes create discriminatory access problems of constitutional dimension.

A. *Access to E-Filed Court Records*

The Manual lists the following as an advantage of e-filing:

Greater efficiency from the instantaneous, simultaneous access to filed court documents for participants in the case, judges, and court staff, and members of the public (to publicly available court documents) wherever participants may be located throughout the world.

Manual at 14.

In reality, however, e-filing programs rarely, if ever, result in “instantaneous” access to e-filed records. In fact, courts often provide more timely access to records filed on paper than to e-filed documents, presumably because decades of working with the press have led courts to adopt appropriate procedures for media access to records filed in paper form. As discussed above, timely access to e-filed documents generally requires that the court either make an electronic in-box available to the press (where reporters can see newly filed documents directly after transmission to the court and before whatever administrative processing might be done before the record can be viewed in the publicly accessible area) or maintain paper copies of e-filed documents for review at the courthouse.

Accordingly, the Press Groups propose that the statement noted above be removed from the Manual and that a statement like the following be included within Section 4.4: “In

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implementing an e-filing system, courts must consider the effect the system will have on public access to court records and ensure that no system is implemented that would delay access to a document beyond the day of filing.”

B. Risks of Vendor-Controlled E-Filing Systems

There are a number of serious risks that are often implicated by a vendor-controlled e-filing system, including the potential for discriminatory press access to the public court record. As Courthouse News has discussed these risks in detail in its comments to the San Francisco Superior Court e-filing rule proposed earlier this year, the Press Groups will not repeat these observations but instead have attached those comments as *Exhibit A* to this letter. These risks seem appropriate for inclusion in any discussion of the advantages and disadvantages of e-filing.

V. Press Access to Court Records (Proposed Section 10.x)

The Press Groups note that Chapter 10, “Public Access to Court Records,” is devoted chiefly to outlining the records that may be excluded from public access and urge the Judicial Council to consider more expansive treatment of the positive aspects of public access. The Press Groups respectfully contend that access for a subsection of the public – the press – deserves particular attention and suggest that a new section be added to Chapter 10 with the heading “Press Access to Court Records.”

This section would emphasize the importance of providing the press with same-day access to court records and contain suggestions on appropriate procedures courts might implement to ensure same-day press access to newly filed civil actions. These might include implementing a press box containing each day’s complaints, allowing members of the press to remain in the clerk’s office or other intake area after it has been otherwise closed to the public, preserving existing press rooms, and including press rooms in new courthouse building plans.

While ensuring access to the public at large is important, the press performs a unique function in keeping the rest of the public informed, and this function merits particular consideration as courts develop procedures for court records. The press’ constitutional role in our society – reporting on the activities of public institutions – has been

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recognized in many court decisions and was recently described by the New Jersey Supreme Court in these words:

Because it is impossible for the citizenry to monitor all of the operations of our system of justice, we rely upon the press for vital information about such matters. Members of the public simply cannot attend every single court case and cannot oversee every single paper filing, although clearly entitled to do so. Thus, it is critical for the press to be able to report fairly and accurately on every aspect of the administration of justice

Salzano v. N. Jersey Media Group Inc., 993 A.2d 778, 790-91 (N.J. 2010). “What our citizens need to know to carry out their role in a democracy is what, in fact, has been filed in court and how the judicial system responds to it.” *Id.* at 791. The U.S. Supreme Court has described the media as “surrogates for the public,” and has noted in the context of courtroom proceedings that although “media representatives enjoy the same rights of access as the public, they often are provided special seating and priority of entry so that they may report what people in attendance have seen and heard.” *Richmond Newspapers*, 448 U.S. at 573.

For the same reason, it is appropriate to provide news reporters who visit a court every day with special procedures for obtaining same-day access to new filings, and to obtain copies of newsworthy new filings, so that those reporters may in turn disseminate information about those filings to interested persons. In other words, giving the press effective and timely access to court records is the best way of ensuring that interested members of the public are informed of what transpires in the courts.

Moreover, as a practical matter, unlike news reporters, the general public visiting the clerk’s office does not have a general, daily interest in reviewing the court’s new business – *i.e.*, reviewing the filings from a particular day. Instead, members of the public usually have a specific interest in one particular case, which may or may not have been recently filed. Similarly, the general public does not normally have the need or urgency of access a media outlet would have in timely reporting the news.

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VI. Case Numbering Systems (Sections 4.2 and 4.3)

A court's case numbering system can have a surprisingly significant impact on court record access for members of the press who regularly review new complaints. The key to an effective system is separate numeric sequencing for limited and unlimited cases (*i.e.*, the numeric portion of case identifiers is assigned in a continuous sequence for unlimited cases and in a separate continuous sequence for limited cases). This is important because limited cases will very rarely be of public interest and are generally not systematically reviewed by the media. Separate sequencing for limited and unlimited cases means that reporters can use the case numbers to guide their review of new filings. For example, if the last unlimited filing of a day is Case No. XYZ1234, the reporter can begin the next day's review with Case No. XYZ1235. Perhaps more importantly, a gap in the sequence indicates an unlimited case that the reporter has not reviewed – perhaps because it involved emergency relief that delayed its availability to the press – so that he or she can be sure to review the case when it is available.

When limited and unlimited cases are interspersed in the same numeric sequence, the risk of newsworthy cases being overlooked increases dramatically, as the significant unlimited cases become lost like needles in a haystack of cases formerly heard in municipal courts.³ The separate sequencing is thus a simple but effective way to separate the newsworthy cases from those that are likely to be of less interest, which ultimately improves the public's understanding of what is being filed in the courts. In addition, without separate sequencing, reporters cannot monitor a continuous sequence to ensure that they have reviewed all newly filed case-initiating documents.

³ Or, to draw on an iconic film image, requiring a reporter to look through all of the new limited cases in order to find the newsworthy unlimited cases reminds us of the last scene of the 1981 movie *Raiders of the Lost Ark*: Having located the Lost Ark of the Covenant in a secret chamber buried under centuries of sand and single-handedly fought off the Nazis who are also after it, Indiana Jones returns home to deliver the Ark to the U.S. Government. But despite our hero's pleas that the Ark's powers be researched, we see the Ark boxed up in a wooden crate and hauled into a massive storage facility, where it will be buried once again amid thousands of identical wooden crates.

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To the extent the CCMS numbering system does not include separate numeric sequencing for unlimited and limited civil cases, it will seriously inhibit rather than promote the ability of the press to monitor civil court litigation on behalf of the public. The Press Groups therefore respectfully request that separate numeric sequencing for civil limited and unlimited cases be incorporated into the CCMS case numbering system and that, in the meantime, the Manual encourage individual courts to adopt such separate sequencing.

VII. Conclusion

The California Newspaper Publishers Association, the First Amendment Coalition, Californians Aware, and Courthouse News support the Judicial Council's efforts to provide trial courts with a practical guide both to their legal obligations and to best practices for administering court records and appreciate the opportunity to share their knowledge and experience in the hopes of improving access to court records in California's trial courts. Should you have any questions or wish to discuss any of these issues further, please do not hesitate to contact our offices.

Sincerely,



Rachel Matteo-Boehm

Encl.

cc: Tom Newton, California Newspaper Publishers Association
Peter Scheer, First Amendment Coalition
Terry Francke, Californians Aware
Bill Girdner, Courthouse News Service

EXHIBIT A



Holme Roberts & Owen LLP
Attorneys at Law

SAN FRANCISCO

May 3, 2010

VIA HAND DELIVERY

BOULDER

Claire Williams
Court Executive Officer
San Francisco Superior Court
400 McAllister Street, Room 205
San Francisco, CA 94102

COLORADO SPRINGS

Re: Comments Of Courthouse News Service On Proposed San Francisco
Local Rule 2.7

DENVER

Dear Ms. Williams:

DUBLIN

On behalf of Courthouse News Service (“Courthouse News”), we are pleased to make this submission in response to the San Francisco Superior Court’s invitation for written comments on proposed changes to the Local Rules of Court for the San Francisco Superior Court. In particular, we are writing about Proposed Local Rule 2.7, which would govern e-filing in this Court.

LONDON

As explained more fully below, as a member of the news media, Courthouse News has serious concerns that Proposed Rule 2.7 would lead to a system of unequal access to civil court filings as between the court’s chosen vendor (who is also engaged in news reporting activities) and other members of the news media – a matter that implicates legal issues of a constitutional dimension. In addition, the e-filing system that would be authorized by the proposed rule would have adverse effects on the Court and the constituencies it serves, as it would mean the Court’s giving up direct control of the public court record and sacrificing a significant potential revenue stream while at the same time imposing considerable costs on the public and forcing lawyers and law firms to enter into contracts with a private vendor they did not choose.

LOS ANGELES

MUNICH

I. About Courthouse News Service

PHOENIX

Courthouse News is a 20-year-old nationwide news service for lawyers and the news media. It is based in Pasadena, California, but has reporters stationed across the country. Courthouse News is similar to other news wire services, such as the Associated Press, except that it focuses on civil lawsuits, from the date of filing through the appellate level. The majority of Courthouse News’ nearly 2,500 subscribers nationwide are lawyers and

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law firms, including many prominent San Francisco firms. In addition, other news outlets are increasingly looking to Courthouse News to provide them with information about newsworthy civil filings. Included among these subscribers are media outlets such as the *Los Angeles Times*, the *San Jose Mercury News*, the *Houston Chronicle*, *The Boston Globe*, the *Detroit Free Press*, *The Atlanta-Journal Constitution*, and FOX, all of which puts Courthouse News in a position similar to that of a pool reporter. Courthouse News' core news publications are its new litigation reports, which are e-mailed to subscribers nightly and contain coverage of all significant new civil complaints. Its web site (www.courthousenews.com), which features news reports and commentary about civil cases and appeals, receives an average of 500,000 unique visitors each month.

With reporters covering civil actions in courts in virtually every state across the country, Courthouse News has witnessed the implementation of many e-filing programs, and consequently has a great deal of knowledge on the effects that various e-filing models have on the media's access to public court records. Courthouse News does not provide e-filing software or services; its only business is news reporting. We hope this serves to enhance the credibility of our position.

II. Key Features Of Proposed San Francisco Local Rule 2.7

Proposed Local Rule 2.7 would authorize a single, private vendor – LexisNexis – to provide electronic filing and electronic service in all complex civil cases, all civil cases assigned to a single judge, and any other civil case upon stipulation of the parties and agreement of the Court. Proposed L. R. 2.7(A), (C)(5), and (C)(8). All parties to these cases “must utilize the services of” LexisNexis, including “enter[ing] into a standard service agreement” with LexisNexis, unless the Court grants an application for the party to be excluded, with a showing of good cause. Proposed L. R. 2.7(D)(1) and (E). The proposed rule calls for LexisNexis to establish fees to be charged “for use of the electronic filing and service system,” and for LexisNexis to maintain those fees for two years from the effective date of the rule. Proposed L. R. 2.7(D)(2). After the initial two-year term, however, LexisNexis may increase user fees without limitation. *Id.*

The proposed rule further provides that the Court Executive Officer “*may* solicit bids from other potential vendors and submit to the Presiding Judge any recommendations for a change in the designation of the Vendor or the terms of the Service Agreement.”

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Proposed L. R. 2.7(D)(3) (emphasis added).¹ However, this is entirely optional, allowing the Court to operate indefinitely with LexisNexis as the sole e-filing vendor.

III. Legal Implications Of The Proposed E-Filing System

Preferential Access To Public Court Record. Since the introduction of the Internet, the nature of news reporting has undergone a fundamental change. Today's media entities include not only newspapers, radio, and television news outlets, but also a variety of online publishers. See, e.g., *The Gazillion-Dollar Question*, *The Economist*, April 20, 2006, at 13 (“[T]he media industry now includes strange newcomers. ... In fact, Google is the most valuable media company in the world, with a market capitalisation about half as large again as that of Time Warner, the largest ‘traditional’ media company.”); David Bartlett, *The Soul of a News Machine: Electronic Journalism in the Twenty-First Century*, 47 Fed. Comm. L.J. 1, 9 (1994) (“[T]he model for electronic journalism in the digital domain will be the on-line database, rather than the daily newspaper or regularly scheduled television news program.”).

No longer constrained by the space limitations of traditional news outlets, the media can now instantly transmit a wealth of information about what transpires at our nation's courthouses to whoever wants to receive it. Accordingly, news reporting about the courts now includes not only reports featuring a single, particularly newsworthy case, but also summaries of all or most complaints filed in a given court on a given day and/or e-mailed alerts of particular court filings. And whereas the timing of news reports was formerly tied to a 24-hour news cycle (e.g., a daily paper or the evening news), news is now being disseminated in a matter of minutes. As one commentator put it, we are currently in an environment where “current events are produced and digested on a cycle that is measured with an egg timer, not a calendar.” David Carr, *Newsweek's Journalism of Fourth and Long*, *N.Y. Times*, Week in Review, May 24, 2009, at 1.

LexisNexis, the sole vendor authorized to provide e-filing services under the Proposed Rule, is an example of this modern breed of news media. In addition to selling access to court records, it uses court filings to provide legal news, commentary, and analysis and

¹ The term “Service Agreement” is not defined in the proposed rule.

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electronic case summaries to its subscribers. LexisNexis also offers its customers e-mail alerts of new civil filings.

In a single-vendor e-filing program, the public record is necessarily filtered through, stored, or accessed on the vendor's computer servers or website, thus giving the vendor priority access to, and effective control over, the public court record. This control is valuable to vendors because it allows them to monopolize the market for dissemination of news about court filings. Where an e-filing program is built around a single vendor that also acts as an electronic publisher, as is the case with LexisNexis, the vendor enjoys a virtually insurmountable advantage over its competitors in the news media, both in terms of timing and cost. Moreover, these timing and cost advantages persist even in those instances where a court makes electronically filed complaints available for review at a public access terminal located at the courthouse. The problem is as follows:

Timing – By definition, an e-filing vendor will always be the first to receive an e-filed document, even if that document is later made available to other news entities. In today's Internet-based news reporting environment, that lead time gives LexisNexis a huge competitive advantage over its competitors in news reporting about court filings. To make matters worse, while the e-filing vendor has an electronically readable version of the court document that can be instantly analyzed and used to prepare news reports that can be disseminated to subscribers in a matter of minutes, competing news entities must manually review e-filed documents (whether in paper or on a computer screen via a public access terminal), manually take notes, and create a news report, a process which takes time and will mean that the competing news entity is always "scooped" by the vendor.

Cost – To gain access to the same information about court filings that is automatically and instantaneously delivered to the vendor's electronic doorstep, other members of the news media must send a reporter directly to the courthouse, with attendant labor and travel costs that multiply with the frequency of visits and the number of courts involved in the program. Alternatively, where remote access to court records is provided through the vendor's web site, competing members of the media must pay the vendor a fee for each document reviewed. The effect of

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these charges is particularly pronounced as to media such as Courthouse News that conduct frequent reviews of a significant number of new court filings.

In short, putting e-filing in the hands of a single private vendor who also engages in news reporting is no different than telling the local newspaper that it will always have a head start in reporting newsworthy new civil cases, and will be able to conduct its news reporting at a cost that is lower than all other media outlets. But that is exactly what will happen if Proposed Local Rule 2.7 is adopted as currently drafted.

Significantly, under the proposed rule, LexisNexis can use e-filed court filings however it wants, including reporting on them and charging an unlimited fee for providing members of the public and the news media with access to those documents.² In fact, the current contract between LexisNexis and the Court not only provides that LexisNexis can provide copies of e-filed documents, Contract at ¶ 8.3 (attached as Exhibit A), but also purports to limit the Court's ability to make e-filed records available to the public, prohibiting the Court from providing on-site access that "interfere[s] with [LexisNexis'] ability to generate revenue." *Id.* at ¶ 4.1(c). In short, the e-filing system that would be authorized by the proposed rule effectively calls for the Court to pay for e-filing by using the public court record as currency.

The Constitutional Problem. It is fundamental that the government may not grant one media entity preferential access to the court record. As prior court decisions have made clear, such preferential access violates both the First Amendment to the United States Constitution and its equal protection clause. The decision in *Telemundo of Los Angeles v. City of Los Angeles*, 283 F. Supp. 2d 1095 (C.D. Cal. 2003), although not involving access to court records, is directly analogous to the single-vendor e-filing scenario created by the proposed rule. In that case, a city entered into an exclusive partnership with a television station for coverage of an official ceremony commemorating the Mexican War. The city insisted that the partnership, together with the fact that the station had invested money and resources in planning the ceremony and therefore had "a

² The proposed rule does not limit what LexisNexis can charge users to search for and view electronically filed documents. LexisNexis currently charges \$10.36 for each search of documents filed electronically in San Francisco Superior Court asbestos cases, and charges \$6.22 for viewing each e-filed document.

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financial interest in participating in the event,” meant that the station’s exclusive access to the event was lawful. *Id.* at 1099. A competing television station filed an action under 42 U.S.C. § 1983, alleging violations of its constitutional rights. Rejecting the contention that offering a video feed to other media outlets to be broadcast after a one-hour delay solved the constitutional problem, the court ordered instead that the competitor station be given equal camera positioning, an equal number of cameras, equal truck positioning, equal access to stage audio, equal access credentials, equal access to production meetings, and equal access to rehearsal meetings. *Id.* at 1098, 1104.

Other courts have reached similar conclusions in cases involving issues of discriminatory access by competing members of the news media. *See, e.g., Anderson v. Cryovac, Inc.*, 805 F.2d 1, 9 (1st Cir. 1986) (trial court “erred in granting access [to discovery materials] to one media entity and not the other”); *American Broadcasting Cos., Inc. v. Cuomo*, 570 F.2d 1080, 1083 (2d Cir. 1977) (“once there is ... participation by some of the media, the First Amendment requires equal access to all of the media or the rights of the First Amendment would no longer be tenable”); *Westinghouse Broad. Co. v. Dukakis*, 409 F. Supp. 895, 896 (D. Mass. 1976) (“All representatives of news organizations must not only be given equal access, but within reasonable limits, access with equal convenience to official news sources.”).

To the extent the Court is proceeding on the assumption that that fiscal crisis not only excuses but necessitates the proposed e-filing system, Courthouse News must respectfully disagree, in two critical respects. First, the proposed single-vendor system does not make financial sense in that it ultimately means funneling significant revenues away from the Court and to a private vendor. Second, the public court record is just that – the public’s record – and control of that record, or priority access to it, cannot be constitutionally traded away by a court in return for e-filing services simply by invoking short-term financial convenience.

Inconsistency With California Rules Of Court. In addition to the constitutional problem inherent in the proposed appointment of a single e-filing vendor, Proposed Local Rule 2.7 also violates California law in that it is inconsistent with the California Rules of Court in a number of respects. Govt. Code § 68070 (“Every court may make rules for its own government and the government of its officers not inconsistent ... with the rules adopted and prescribed by the Judicial Council.”). For example:

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- Rule of Court 2.253(a) limits the types of cases in which a court may require parties to file and serve documents electronically to a “class action, a consolidated action, a group of actions, a coordinated action, or an action that is complex under rule 3.403.” Proposed Local Rule 2.7, however, would also require electronic filing and service in cases assigned to a single judge, a category of case that is not specified in Rule 2.253(a).
- If a court contracts with a single provider, that provider “must accept filing from other electronic filing service providers to the extent it is compatible with them.” Cal. R. Ct. 2.255(a)(3). This rule effectively requires any e-filing vendor to implement a system that would allow other vendors to participate in e-filing. Proposed Local Rule 2.7 does not incorporate the requirements of Rule 2.255(a)(3) and instead would appoint a vendor whose proprietary e-filing system has not accommodated other vendors.³
- Rule of Court 2.255(b) permits only a “reasonable” e-filing fee, but Proposed Local Rule 2.7 imposes no limitations on the fees that the vendor can charge, and Courthouse News respectfully submits that the fees currently being charged by LexisNexis under the Court’s existing asbestos e-filing program – \$9.00 per e-filing into a single case and \$13.00 per e-service transaction – are not “reasonable.” Moreover, without competition from other vendors, there will be no natural market forces to limit any fees charged by the sole e-filing vendor.
- Under Rule of Court 2.255(e), “[a]ll contracts between the court and electronic filing service providers must acknowledge that the court is the owner of the contents of the filing system and has the exclusive right to control the system’s use.” The current contract between the Court and LexisNexis, however, does not acknowledge that the Court has the exclusive right to control the system’s use. To the contrary, it purports to grant only a “nonexclusive, nontransferable license” from LexisNexis to the Court to do things like enable court employees to

³ Note, however, that an e-filing system in which a single e-filing vendor was permitted to be the sole repository and gatekeeper of e-filed documents would pose the constitutional issues noted above, even if additional vendors were able to file into that vendor’s system.

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search for e-filed documents through the LexisNexis system “in connection with the Court’s normal court processes.” Contract at ¶ 4.1 (attached as Exhibit A).

IV. Economic And Other Practical Implications Of Proposed E-Filing System

In addition to the constitutional and other legal problems that would be created by the e-filing system authorized by Proposed Local Rule 2.7, the proposed e-filing system is also likely to impose significant economic and other disadvantages on the Court and the attorneys and parties to litigation that it serves.

E-Filing Fees And Other Costs To Users. The proposed rule requires the e-filing vendor to establish “fees charged ... for use of the electronic filing and service system.” But as of March 30, 2010 – almost two weeks after the Proposed Rule was published for comment – there was no written agreement between the Court and LexisNexis as to what those fees would be.⁴

As noted, under San Francisco’s pilot asbestos e-filing program, LexisNexis charges users \$9.00 per e-filing into a single case and \$13.00 per e-service transaction. *See* LexisNexis Asbestos Case Pricing Sheet and Optional Services Price Sheet, both attached as Exhibit B. In addition to these fees, e-filing parties must also pay a courier or overnight delivery service to submit a courtesy paper copy of the e-filed document to the Court (or LexisNexis will do so for \$25.00, plus ten cents per page). Proposed L. R. 2.7(T); LexisNexis Optional Services Price Sheet (Exh. B).

At these rates, litigants – who are effectively forced to do business with LexisNexis – would not realize any savings from e-filing and e-service but would instead almost certainly be paying *more* for filing and service than they do in traditional paper cases, where service can frequently be accomplished by fax or e-mail. It also bears note that

⁴ Pursuant to Rule of Court 10.500, Courthouse News submitted to the Court a request in January 2010 for “[a]ll records relating to the pricing of services provided by LexisNexis” in connection with programs for e-filing or electronic public access to court documents. In response, the Court produced a number of records, but none of them indicated what LexisNexis would charge the public for its services. On March 30, 2010, the Court confirmed that it had no other “[r]ecords reflecting fees associated with e-filing or e-service of documents by litigants or the cost of accessing e-filed documents.”

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LexisNexis e-filing fees are the subject of recent class action lawsuits against various government officials in both Georgia and Texas. *McPeters v. Edwards*, Civil Action No. 4:10-CV-1103 (S.D. Tex., filed April 6, 2010); *McCurdy v. Fulton County*, Case No. 2010-CV-17957 (Fulton Superior, Georgia, filed Jan. 6, 2010).

Lost Revenue. In addition to the immediate costs that would be imposed on the public by the proposed e-filing system, the Court would also be giving up the significant revenues it could be generating for itself through e-filing and electronic public access. Under Proposed Local Rule 2.7, the vendor acts as a private toll collector positioned between the public and the Court, collecting e-filing fees and fees for remote electronic access to court records that could instead be captured by the cash-strapped Court itself. As the Court acknowledged in its March 30 letter, it “derives no economic benefit ... over and above the filing fees” that it would have been paid by litigants in any event.

Nor does the proposed rule provide for the possibility of later moving to an internally administered e-filing system, and, as a practical matter, the use of LexisNexis’ proprietary system (versus non-proprietary, standards-based systems) will make it much more difficult for any transition to additional vendors or an in-house system, as the following case study demonstrates.

Case Study – Colorado. Recent developments in Colorado illustrate the dangers of implementing a single-vendor e-filing program, even if it is only intended as a temporary measure. Colorado was an early adopter of e-filing, with a single-vendor statewide e-filing program also built around LexisNexis. In addition, LexisNexis currently operates the state’s electronic public access programs. However, this is about to change.

In November 2008, the Colorado Judicial Department announced that it wanted to replace its LexisNexis-controlled e-filing and electronic public access programs with internally developed and administered programs. As the Department has explained, not only would an in-house program offer such benefits as being able to offer e-filing for criminal cases (a category of case not served by LexisNexis’ e-filing program), but bringing e-filing and public access in-house would also generate millions of dollars each year for the Judicial Department – revenue that had previously been going to LexisNexis.

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After the Colorado General Assembly authorized the Department to spend cash funds in FY 2008-2009 to develop the public access system, which would in turn generate the revenue needed to create the e-filing system, LexisNexis began an intensive lobbying effort against the plan, causing the General Assembly to deny additional spending authority for the project. Despite this legislative setback, the Department announced in November 2009 that it had completed development of its in-house electronic public access system using the February 2009 initial appropriation. After another round of intensive lobbying against the plan by LexisNexis and other private vendors, as well as legislative testimony by these vendors criticizing the Department (during a March 10 public hearing before the House State Affairs Committee, LexisNexis' representative accused the Judicial Department of being "disorganized" and "incompetent"), the General Assembly ultimately approved the Department's plan to bring both systems in house.

The Department's November 2009 budget briefing outlining its current plans for converting its e-filing and public access programs to a state-operated system indicates that, once operational (by 2012), the in-house e-filing system is expected to bring in approximately **\$7.7 million** in net revenues to the State of Colorado, and the Department further estimates that by Fiscal Year 2013-14, the annual revenues generated by both its electronic public access and e-filing systems will total about **\$9 million**. A March 24, 2010 letter from State Court Administrator Gerald Marroney to the House Business Affairs & Labor Committee of the Colorado General Assembly, which further outlines the benefits of bringing e-filing and electronic public access in-house, is attached as Exhibit C.

Prior to its initial announcement of its transition plans, the Department asked the National Center for State Courts (NCSC) to review its feasibility study and cost-benefit analysis, the results of which were highlighted in a November 28, 2008 budget briefing. As shown in that briefing, the NCSC concluded that the Department's proposal to bring both its e-filing and public access system in-house was "clearly and completely" superior to continuing to contract with an outside EFSP to operate both systems. The NCSC's observations supporting this conclusion include the following:

- "Colorado is currently in a position of risk with respect to its relationship with LexisNexis. The vendor's inability to develop applications and its lack of

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adequate safeguards for court documents must be addressed before a crisis occurs.”

- “The two existing issues of excessive unscheduled downtime and the lack of disaster planning alone justify a change in direction.”
- “The NCSC concludes that it supports the Department’s recommendation that it begin immediately to bring both systems in-house. This conclusion ‘seems clear, obvious, and difficult to dispute.’”

Although it now appears as though the Colorado Judicial Department will ultimately succeed in transitioning from a vendor-operated e-filing system to an internally operated program, the Colorado experience aptly illustrates the dangers of implementing a single-vendor e-filing program, even on a trial or pilot basis. Courthouse News sometimes hears court officials justify single-vendor programs on the grounds that they are only temporary and that the courts have been careful to include short renewal provisions in their contracts and/or other legal avenues for ending a relationship with a vendor. But such provisions can be found in Colorado’s e-filing contracts, and yet that state’s Judicial Department was nevertheless required to fight an extraordinary legislative battle simply to extricate itself from its vendor arrangements.

Lack Of Competitive Bidding Or Internal Analysis. Another reason to be wary of the proposed e-filing system is that it would not be the result of competitive bidding. Putting aside the question of whether competitive bidding was legally required for issuance of the e-filing contract, the principle remains that competitive bidding is the conventional guarantee that the government will “obtain the best economic result for the public.” *Graydon v. Pasadena Redevelopment Agency*, 104 Cal. App. 3d 631, 636 (1980) (quoting 10 McQuillin, *Municipal Corporations* (3d ed.) § 29.29).

In this case, the lack of bidding means that the Court cannot know whether another vendor would be able to provide a system that would be better for the Court and the public. In fact, in its March 30 letter, the Court told us that it had no “[r]ecords reflecting ... analyses, reports, and other records pertaining to the Court’s revenues and/or costs associated with” LexisNexis e-filing and electronic access services to the Court.

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V. Conclusion

We understand that in light of the budget crisis facing this and other courts in California, the Court may be concerned about the initial costs of implementing an internally operated e-filing system, whether developed by the Court or based on turnkey software purchased from a vendor. We respectfully contend, however, that if the alternative is paying for e-filing with the coin of preferential access to the public court record, the better choice is to not implement e-filing.

Rather than adopting Proposed Rule 2.7 and expanding its e-filing program, we urge the Court to consider less problematic alternatives to achieve its goals. For example, representatives of the Court have cited the scarcity and expense of space for storing paper files as a reason the proposed e-filing system is necessary. Instead of turning the public court record over to a single, private vendor, the Court could address this issue by scanning existing and incoming paper files. Similarly, rather than forcing litigants to pay a particular private vendor significant fees to perform electronic service, the Court could achieve the benefits of electronic service by making direct electronic service (*i.e.*, service by e-mail), which is already authorized by California Rule of Court 2.260, mandatory in appropriate cases.

In the event the Court does adopt Proposed Local Rule 2.7, Courthouse News suggests the following amendments, which may mitigate (but not necessarily resolve) some of the problems identified in this letter:

1. Include a requirement that any e-filing system be based on standards-based, non-proprietary technology such that multiple vendors could operate in the same system, without any single vendor having priority access to or control over e-filed documents.
2. Include a prohibition against use of any e-filed documents by any e-filing vendor for news reporting purposes, *together with* a requirement that public access terminals be available at the courthouse for viewing e-filed documents at no charge. We suggest the following language:

“E-Filing Vendors are prohibited from providing any fee-based services related to e-filed documents other than to the parties in the

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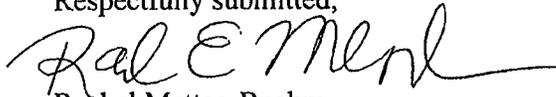
case to which the particular document pertains.”

* * *

“A document filed electronically must be made available for no charge through a public access terminal at the courthouse.”⁵

Courthouse News appreciates the Court’s consideration of its views on the proposed rule changes and hopes the Court will find these comments to be helpful. Should there be any question regarding these comments, please do not hesitate to contact our offices.

Respectfully submitted,



Rachel Matteo-Boehm
On behalf of Courthouse News Service

Enclosures

⁵ As noted above, the guarantee of a public access terminal alone does not fix the problems outlined in this letter. Accordingly, the public access terminal guarantee and the fee-based service prohibition must be implemented together. We note that this solution is modeled after a general e-filing order issued by the Supreme Court of Tennessee. *See* Order re: Electronic Filing in the Appellate Courts, M2006-00306-SC-RL2-RL (July 21, 2006).

**Exhibits to this letter
available upon request**

Attachment B

Rules 10.850 and 10.854 of the California Rules of Court are adopted, effective January 1, 2011, to read as follows:

1 **Rule 10.850. Trial court records**

2
3 Unless otherwise provided, “court records” as used in this chapter consist of the records as
4 defined in Government Code section 68151(a).

5
6 **Rule 10.854. Standards and guidelines for trial court records**

7
8 **(a) The standards and guidelines**

9
10 The Administrative Office of the Courts, in collaboration with trial court presiding judges
11 and court executives, must prepare, maintain, and distribute a manual providing standards
12 and guidelines for the creation, maintenance, and retention of trial court records (the *Trial*
13 *Court Records Manual*), consistent with the Government Code and the rules of court and
14 policies adopted by the Judicial Council. The manual should assist the courts and the
15 public to have complete, accurate, efficient, and accessible court records. Before the
16 manual is issued, it must be made available for comment from the trial courts.

17
18 **(b) Contents of the *Trial Court Records Manual***

19
20 The *Trial Court Records Manual* must provide standards and guidelines for the creation,
21 maintenance, and retention of trial court records. These standards and guidelines must
22 ensure that all court records subject to permanent retention are retained and made available
23 to the public in perpetuity as legally required.

24
25 **(c) Updating the manual**

26
27 The Administrative Office of the Courts, in collaboration with trial court presiding judges
28 and court executives, must periodically update the *Trial Court Records Manual* to reflect
29 changes in technology that affect the creation, maintenance, and retention of court records.
30 Except for technical changes, corrections, or minor substantive changes not likely to create
31 controversy, proposed changes in the manual must be made available for comment from
32 the courts before the manual is updated or changed. Courts must be notified of any changes
33 in the standards or guidelines, including all those relating to the permanent retention of
34 records.

35
36 **(d) Adherence to standards and guidelines**

37
38 Trial courts must adhere to the requirements contained in the *Trial Court Records Manual*,
39 except as otherwise provided in the manual.



Attachment C

Trial Court Records Manual

VERSION 1.0



JUDICIAL COUNCIL
OF CALIFORNIA

ADMINISTRATIVE OFFICE
OF THE COURTS

Trial Court Records Manual

Version 1.0

January 1, 2011



JUDICIAL COUNCIL
OF CALIFORNIA

ADMINISTRATIVE OFFICE
OF THE COURTS

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1. Introduction

This Trial Court Records Manual (TCRM) has been developed by court administrators for court administrators and is published by the Administrative Office of the Courts under the direction of the Judicial Council of California. The vision of the court administrators and AOC staff who drafted the TCRM is to encourage and embrace input and participation from trial court leaders and subject matter experts in every court so that the TCRM is not only a reference manual of laws and rules governing court records management but also a repository for our best ideas and programs.

This TCRM, called Version 1.0, is the initial version of the manual. It is not considered final or complete; additional content will be drafted for subsequent versions and distributed to trial court leaders for comment as those versions become available.

As the Judicial Council adopts, and the trial courts begin to implement, new policies for the creation, maintenance, retention, and destruction of electronic records, the TCRM seeks to address the issues and challenges that trial courts will encounter with archival and current paper records, as well as to describe the new policies, business practices, and technology considerations that will lay a solid foundation for managing electronic records in the future. As the trial courts' business model changes with the advent of new technologies, courts are encouraged to develop strategic solutions that will position them to adapt to emerging trends in paperless records management.



To assist users in distinguishing between mandatory requirements and optional features of court records management programs, this icon precedes sections containing optional ideas, programs, and best industry practices. Sections **not** preceded by this icon contain mandatory requirements. Sections containing mandatory requirement typically contain links to the relevant statutes or rules.

This manual will be revised and updated periodically. Users are encouraged to submit in writing questions or suggestions for improving the TCRM to

Court Executives Advisory Committee
c/o Administrative Office of the Courts
Executive Office Programs Division
455 Golden Gate Avenue, 5th Floor
San Francisco, CA 94102-3688

1.1 Background

The Judicial Council of California began developing and maintaining an overall records management framework for California courts to satisfy the needs of the courts for case processing and of historians and archivists for historical and research purposes served by court records, as well as the expectations of the public and litigants to provide reasonable confidentiality of court records. Many of the existing statutes, rules of court, and standards

include permissive minimums for court records retention and other options for court records management that allow courts significant latitude in applying them.

For many years, the management of trial court records has been costly and cumbersome because of several statutory and operational factors. These factors include the cost of transporting, preserving, and storing paper files and converting them to microfilm or microfiche; the outdated technologies allowed by statute to manage nonpaper records; the lack of staff resources dedicated to managing records; inadequate storage space near the courthouse to enable convenient access to records; and mandates for notification and destruction of records that are impractical and time-consuming.

The path to the current status has had many twists and turns. Prior to unification, trial court records were maintained by the county clerk, who served, by law, as the clerk of court. Municipal and justice court records were the responsibility of each court's clerk. Over time the clerk of court duties were transferred to the trial court executive officers. This was essentially complete across the state when the courts were merged at the end of the 1990s. However, at this point, there needed to be a merger of the records management systems of the two levels of court. Shortly after unification, primary funding for trial courts was shifted from the counties to the state. In addition to changing the source of funding, the change expanded the discretion of each trial court as to how to manage its records in terms of staffing, equipment, and, to a lesser extent, facilities. All of these transitions have changed the opportunities and challenges facing trial courts in establishing and maintaining an appropriate records management program.

The next stage of court records management involves the transition from paper records to records that are created and may exist only in electronic form. This involves both case management systems, and the eventual migration to the California Court Case Management System and document management systems containing document images. Some information in the future may exist only in electronic form and may consist only of data in fields of a case management system and not as a form readily converted to paper. A comprehensive records management system must contemplate and enable the shift to electronic records.

In December 2009 the Judicial Council of California's Court Executives Advisory Committee and Court Technology Advisory Committee cosponsored a proposal to the council to amend Government Code sections 68150 and 68151 pertaining to the creation, maintenance, retention, and destruction of trial court records. The proposed amendments were intended to give more latitude to the trial courts to manage and retain court records using modern technologies and to transfer the oversight of such activities from the Legislature to the Judicial Council and the trial courts. With this change, it is anticipated that the courts will be able to modernize their court records management when they are able to do so without imposing any specific requirements or timelines.

To ensure a seamless transition of oversight responsibilities from the Legislature to the Judicial Council, the proposed changes to the Government Code raise the need for adopting new California Rules of Court to establish standards and guidelines for the creation, maintenance, reproduction, and preservation of trial court records. In October 2010 the

council adopted new rules 10.850 and 10.854, and amended rule 10.855. Rule 10.850 references the existing Government Code section 68151 on the definition of “court records.” Rule 10.854 directs the Administrative Office of the Courts to develop and distribute standards and guidelines for managing trial court records by creating a TCRM. The rule also provides direction for the content of the TCRM and mandates its periodic update. Rule 10.855 is modified to include requirements in the TCRM for court records preserved as part of the comprehensive, systematic, and subjective sampling programs. The new and amended rules go into effect on January 1, 2011.

1.2 Purpose of Records Management

The provision of a complete, accurate, and accessible court record, created and available in a timely manner, fulfills one of the judiciary’s basic roles. The court record not only provides a record of the court’s decisions but also educates the public and establishes societal norms for behavior governed by the law. The purpose of developing a TCRM is to assist the trial courts in establishing a comprehensive records management program that meets the expectations of the courts and the public regarding this fundamental role.

The establishment and continued operation of a comprehensive records management program is the responsibility of the court’s executive officer. The National Association of Court Management (NACM) Core Competency Curriculum Guidelines on Essential Components identifies what court executives should know and be able to do regarding the court record. The key abilities are described as follows:

- Manage the court record-keeping function to produce a complete, accurate, and timely record of judicial actions and decisions.
- Establish court records management policies and practices, including records preparation, records retention, public access, and privacy protections.

A comprehensive records management program covers the creation, maintenance, retention, and destruction of trial court records. Each component may have several elements and objectives.

The CREATION of the court record involves two sets of information. One set includes documents and other information provided by the parties to aid the court in making its decisions, for example, pleadings, motions, exhibits, and so forth. The litigants, the appellate courts, and the public must be able to see all the information the court considered in making its decision, except what has been sealed or is subject to rules protecting the confidentiality of the information. The second set is the documentation of what the court did and decided. This includes matters related to calendaring and case management, as well as decisions of the court and juries. For litigants and the public to know what they can, and cannot, do, they need clear information about what the court found the law to be and how it was applied in this case.

The MAINTENANCE of the court record addresses the continued existence and accessibility of the record. The record must be kept in a manner that ensures its completeness and availability both during the life of an active case and after it is closed, where the result may still be relevant to the parties and the public. It must also be kept in a manner that allows easy and convenient access to those wanting to see it. The court should be able to find the record easily when the record is needed. Making copies of the record should also be convenient and inexpensive. Finally, the format in which the record is kept should allow ready access over time, despite changes in technology, in particular, obsolescence of equipment and software required to access electronic forms of a record.

Another aspect of maintenance is preserving the record's integrity; the court record should be the whole record and nothing but the record. The system for maintaining court records should minimize the risk of misfiling, loss, or damage of the court record or any of its parts.

Finally, good records management involves controlling who has access to the record or its component parts. There may be portions of the record that, by law or judicial decision, are accessible only to certain individuals, parties, or groups of individuals based on their role in the justice system. A good records management program should provide convenient and timely access to those allowed to see information, and prevent access by those not authorized to see it.

The RETENTION of the court record relates to how long it must be available to the public. Some court records must be retained indefinitely; others have a limited "shelf life" and need not be retained.

The DESTRUCTION of the court record is the final stage of a records management program. When the existence of a court record is no longer required, based on passage of time or a policy decision, the record should be properly destroyed. Whether the record ceases to exist, or becomes accessible only to certain groups, is a policy decision that the records management program must correctly implement.

The goal of this TCRM is to provide direction to the court executive and staff on ways to develop and improve their records management system to fulfill the objectives of faithfully executing all custodial responsibilities pertaining to the court record.

1.3 Purpose of the Manual

The purpose of the TCRM is twofold. First and foremost, it contains the statutory and rule requirements with which all trial courts must comply to meet minimum standards to execute their important responsibilities pertaining to managing paper and electronic court records. Second, the TCRM is intended to be a resource guide for court administrators and records staff to help them develop records management programs that best serve their local courts. It includes a broad, though perhaps not exhaustive, list of topics that all courts are encouraged to address to ensure that they have comprehensive and effective local records management programs.

The optimal way to use the TCRM is in electronic form, as there are hyperlinks to reference materials, statutes, and other source documents throughout this publication. AOC staff will make every effort to regularly refresh and update links so that the TCRM is a current and relevant resource for records management staff.

In addition to providing a resource that will contain all of the relevant statutes, rules, requirements, industry standards, and many best practices for court records management, the TCRM will also include a retention and destruction table for court records that is organized in a simple, readable format and includes links to the underlying authority for record retention in every case type.

1.4 Life Cycle of a Record

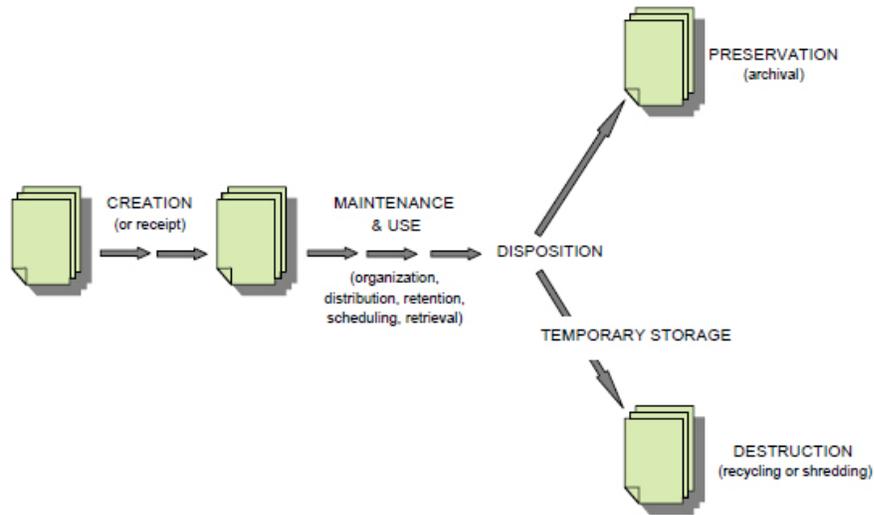
Courts often make the fundamental error of viewing records management only as the sampling, archiving, and destroying of case files in accordance with various statutes and rules of court. This manual is predicated on an expanded definition of records management that encompasses the complete life cycle of court documents from initial filing to final storage and destruction. As documents travel down this path, they will need to be transported to various court locations and viewed by multiple staff members, parties to the case, and others for various purposes. Archiving and destruction is just one step in the process.

Records management typically begins with document management. A comprehensive and effective records management program addresses the numerous issues and questions that arise in the life cycle of court documents. Here are just a few examples:

- How are documents to be captured and processed when initially filed?
- Who will need to access them at various points in the adjudication process?
- What method will be used to organize, store, and retrieve documents as cases are processed and disposed?
- What resources are necessary to track and manage individual documents and case file locations and security?
- How are electronic technologies used to access documents in place of the movement and viewing of physical files?

Courts that develop clear and comprehensive answers to these issues and questions are well positioned to have an effective document management system. The manner in which documents are captured and managed at the beginning and middle portions of their life cycle can often determine the ease and efficiency by which they are finally archived and destroyed. More importantly, extensive savings in staff time and financial resources can be achieved through a well-designed, comprehensive documents management program that also enables greater access to court records and services by staff, judicial officers, case parties, and other members of the general public.

Records Life Cycle



1.5 Key Definitions

Court Record

Any document, paper, or exhibit filed by the parties to an action or proceeding; any order or 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. (Cal. Rules of Court, rule [2.502](#).)

Electronic Record

A computerized court record, regardless of the manner in which it has been computerized, is a term that includes both a document that has been filed electronically and an electronic copy or version of a record that was filed in paper form. The term does not include a court record that is maintained only on microfiche, paper, or any other medium that can be read without the use of an electronic device. (Cal. Rules of Court, rule [2.502](#).)

Records Management

The systematic control of recorded information required to operate a court's business, including creation, active maintenance and use, inactive storage, and final disposition.

2. Statutes and Rules of Court Governing Trial Court Records Management

This section lists the principal statutes and rules of court that relate to trial court records.

2.1 California Government Code

Sections 68150 to 68153

Government Code sections [68150 through 68153](#) prescribe how trial court records are to be maintained and preserved, specify how long different types of records must be preserved, and provide procedures for the destruction of records.

2.1.1 Signatures on Electronically Created Court Documents

Government Code section [68150\(g\)](#) provides that any notice, order, judgment, decree, decision, ruling, opinion, memorandum, warrant, certificate of service, or similar document issued by a trial court or judicial officer of a trial court may be signed, subscribed, or verified using a computer or other technology. Future versions of this manual will contain procedures, standards, or guidelines for signing, subscribing, and verifying court documents by electronic means.

Section 68511.2

Government Code section [68511.2](#) provides that the Judicial Council shall provide by rule for the photographic, microphotographic, mechanical, or electronic entry, storage, and retrieval of court records.

2.2 California Rules of Court

General Provision for Court Records

[Rule 2.400](#). Court records

Trial Court Records Management

Rule 10.850. Trial court records definition

[Rule 10.851](#). Court indexes—automated maintenance

Rule 10.854. Standards and guidelines for trial court records

Rule 10.855. Superior court records retention program

Public Access to Electronic Records

[Rule 2.500](#). Statement of purpose

[Rule 2.501](#). Application and scope

[Rule 2.502](#). Definitions

[Rule 2.503](#). Public access

[Rule 2.504](#). Limitations and conditions

[Rule 2.505](#). Contracts with vendors

[Rule 2.506](#). Fees for electronic access

[Rule 2.507](#). Electronic access to court calendars, indexes, and registers of actions

Sealed Records

[Rule 2.550](#). Sealed records

[Rule 2.551](#). Procedures for filing records under seal

3. Records Management Administration

3.1 Application of Standards

The Trial Court Records Manual sets forth standards and guidelines for court records maintained of the California trial courts. The TCRM will be periodically updated to reflect changes in statutes, rules of court, or technology that affect the creation, maintenance, retention, and destruction of court records. As previously noted, except for technical or minor (nonsubstantive) changes not likely to create controversy, proposed revisions to the TCRM will be circulated to the trial courts for comment before the TCRM is updated or revised. Pursuant to California Rules of Court, rule 10.854(c), courts will be notified of any changes in standards or guidelines, including all those pertaining to the permanent retention of records.

Each trial court must develop records management practices consistent with minimum standards authorized in statutes and rules of court, as delineated in the TCRM. Moreover, trial courts are also encouraged to review guidelines described in the TCRM and develop local programs that reflect these policies and practices. Standards and guidelines are intended to lead to more efficient and uniform practices among trial courts to ensure better protection and preservation of and improved public access to trial court records.

3.2 Responsibility for Effective Records Management

The trial court executive officer, as part of the enumerated duties in California Rules of Court, rule [10.610](#), and Government Code sections [69840 through 69848](#), shall oversee the creation, maintenance, retention, and destruction of trial court case records in accordance with all applicable laws, rules of court, and guidance provided in the TCRM. The court executive officer may delegate these duties to subordinate staff members who serve as records managers.

3.3 Duties and Responsibilities of Records Managers



Trial courts have developed many effective records management programs and practices. For the purposes of this manual, the duties of effective records managers have been identified and may include the following:

- plan for the management and control of records;
- recommend procurement of records management equipment and supplies;
- investigate and recommend new technologies;
- implement standard procedures;
- conversion and transfer of paper records to other media, and establish and oversee the primary and backup storage systems for these records;

- develop disaster recovery programs in the event that primary data systems become damaged or inoperable;
- maintain the inventory of records;
- manage records destruction programs, which includes ensuring that appropriate notices of destruction are prepared and disseminated by mail or publication, monitoring the destruction of records, validating records destruction, and obtaining certificates of destruction from qualified service providers;
- research new and emerging technologies that are designed to assist organizations with records management;
- monitor inventory and maintain security at off-site storage; and
- train subordinates and representatives of related entities in records management.

3.4 Records Management Training

(Training and curriculum content will be developed for TCRM Version 2.0.)

4. Creation, Filing, and Retrieval of Court Records



Records management is a specialized field of court administration for determining how records will be organized, categorized, and stored, and in what format (paper or electronic). Establishing an efficient system to create, file, and retrieve court records involve careful planning to ensure productive workflow. This includes

- developing clear protocols on how records are created;
- devising case type and numbering classification systems that convey meaningful information to those who access the records;
- deciding how records will be organized in paper and electronic filing systems;
- determining the best methods for tracking the movement of records within the court and among court facilities; and
- researching and selecting the proper equipment (shelving, tracking applications, scanners) and supplies (file folders, labels, bar codes).

4.1 Court Record Creation Process

(The content for this section will be addressed in TCRM Version 2.0.)

4.2 Numbering Schematic for Court Records



A case numbering system should be rational and meaningful and should convey information to court staff and other users that will help them understand how court records are organized. The numbering system must ensure that each case has a unique number to minimize confusion and facilitate locating and filing the case and its associated documents. The case number may include key information that includes year of filing, case type, and a sequential identifying number. For example, a case number may consist of

1. court jurisdiction identifier;
2. the last two digits of the filing year;
3. an alpha or numeric code to designate case type (e.g., CR for criminal, CV for civil);
4. a continuous sequentially assigned number related to that case type; and
5. additional identifiers as suffixes, such as court branches or designations for multiple defendants, based on local needs.

For example, using this common numbering scheme, the 345th criminal case, with two defendants, filed in Marin County Superior Court in 2010 might generate the following unique case numbers: 21-10-CR0000345A for the first defendant and 21-10-CR0000345B for the second defendant.

Once trial courts migrate to the California Court Case Management System (CCMS), a uniform, statewide numbering schematic will be implemented for all new filings.

4.3 Filing Systems for Court Records Maintained in Paper Format



Effective filing systems for paper records determine how records will be organized, categorized, accessed, and stored. The most efficient filing systems ensure that records can be retrieved at the right time, at the right place, at the lowest possible cost. This includes determining what kind of shelving will be used, who will have access to the record storage areas, how records will be accounted for when not shelved, and how records will be located when they cannot be readily retrieved.

Records managers must first decide how to organize paper records on file shelves or in cabinets. There are several filing systems that may be considered, but all systems have advantages and disadvantages. Ideally, the type of filing system(s) selected will be compatible with the records organized in the system. Below are descriptions of three commonly used filing systems.

4.3.1 Numerical Filing Systems by Case Numbers



Court records may be arranged in numerical sequence, although filing systems that are strictly numerical are uncommon in organizing case records, because of the volume, complexity, and variety of case types. (These systems are more useful for administrative records [procurements, accounts payable, etc.], as these kinds of records are less complex and less variable.)

A numerical arrangement orders records from the lowest number to the highest. This method is also often an indicator of which files are the oldest (the lower-numbered files) and which are the most current (the higher-numbered files). While these filing systems are simple and easy to learn, and make detecting misfiles more readily apparent, a disadvantage of this system is that new records are being shelved only at one end of the system. As old records are purged, staff must shift and reshelve remaining records to make room for new ones. A benefit of these systems is that a numerical scheme is easier to comprehend than an alphanumeric filing scheme and may result in fewer misfiles.

4.3.2 Alphanumeric Filing Systems by Case Numbers



An alphanumeric arrangement combines alpha characters and digits to designate case records and determine how they will be shelved. Alphanumeric filing systems are commonly used for court case records. There are two ways in which these systems are organized. Typically, alpha characters are used to signify case types and often precede sequential case numbers. In some filing systems, all cases with the same case type are grouped together and then filed sequentially by case number. For example, all civil cases with alpha designations of “CV” are in one grouping, while family law cases with designations of “FL” are in a separate section of the filing system. An alternative approach is that all alpha designations are commingled and share the sequential filing number sequence. In these systems, the filing year is an important feature of the case number, to avoid replicating case numbers over time. For example, all civil, probate, and family law cases, with prefixes of “CV,” “PR,” and “FL,” respectively, share a numbering sequence and are

filed together in the same system. Alphanumeric filing systems are often configured to reflect the way the trial court organizes functions in the clerk’s offices or courthouse. Because alphanumeric systems are more complex than simple numeric systems, the opportunity for misfiles is increased.

4.3.3 Terminal Digit Filing Systems by Case Numbers

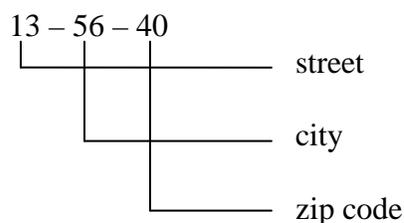


Terminal digit filing systems are also used in many organizations, including trial courts. In a terminal digit system, the focus for shelving records is only on the numerical portion of a case number. Cases are not filed sequentially; instead, every file is shelved based on an “addressing” scheme that is associated with the case number.

In terminal digit systems, the numbers are read from right to left and divided into three sections. In the terminal digit file there are one hundred (100) primary sections ranging from 00 to 99. In this arrangement, the last two digits are the primary unit used for filing; records are ordered by the last two digits, then the middle two digits, and finally by the first two digits.

Another way to conceptualize this system is to treat case numbers as analogous to the postal designations of street, city, and zip code. For example, case number 135640 would be divided into three parts: “13” representing the “street,” “56” representing the “city,” and “40” representing the “zip code.” The entire filing system is divided into 100 areas, or zip codes, starting with section “00” and ending with section “99.” Then each zip code is divided into 100 subsections, or cities, from “00” to “99.” Finally, each city subsection is divided again into subsections, or streets, from “00” to “99.”

For case number 135640, the last two digits of the case number, “40,” is analogous to the zip code designation and provides the general area of the filing system in which the case will be shelved. The middle two digits, “56,” narrows down the “city” location in section “40” where the record will be shelved. Finally, the first two digits, “13,” represent the “street” in the “city” that is the record’s final destination.



While this system requires more training initially, once staff is trained, terminal digit virtually eliminates the need to shift and reshelve records, as new records are interspersed among existing records and purged records are removed from throughout the system.

4.4 Electronic Format Filing Protocols

4.4.1 E-Filing Overview



In a period of increasingly tight budgets and ever-expanding caseloads, courts across the country have looked at electronic filing as a way to reduce the considerable demands of handling physical case files and the long-term costs of storing official documents. In theory, electronic filing of pleadings and other court papers will finally make it possible to move toward the ideal of a “less paper” courthouse, thus realizing a wide range of potential spin-off benefits for litigants, judges, lawyers, court administrators, and the general public.

The idea that a court can operate electronically is not new. Quite a few courts have successfully implemented electronic records processes that use imaging technology to “scan” paper documents and convert them to electronic files that are stored in sophisticated document management systems. For example, the bankruptcy court is almost completely paperless after years of transition for the court, attorneys, and other users. But the effort and expense needed to scan each new filing is not trivial. Clerks are still required to key the document’s type, case number, and other vital information into the court’s computerized case management system, a task that is essentially unchanged from the traditional paper document world.

Advantages of e-filing:

- Saves the court the cost of converting most documents from paper to electronic form by taking advantage of the fact that lawyers and other court users create most documents filed in courts using their own computers. It is wasteful to have pleadings and other legal documents converted to paper merely to be reconverted to images when they ultimately reach the courthouse. The drawbacks of document images that were not e-filed—the inability to extract information contained within them, the relatively large size of their files on a computer, and the resulting slower response time for calling them up for viewing or transmitting them from place to place—are avoided as well.
- Expedited processing time by eliminating the time required for mailing or personal delivery of pleadings and other documents.
- Greater efficiency from the instantaneous, simultaneous access to filed court documents for participants in the case, judges, and court staff, and members of the public (to publicly available court documents) wherever participants may be located throughout the world.
- Fewer delays caused by lost or misplaced paper files.
- Increased efficiency and reduced cost from the ultimate reduction or elimination of handling and storing paper case files in courts, lawyers’ offices, and official archives.
- Improved legal processes, as judges and lawyers learn to take advantage of the universal availability and ease of sharing of electronic documents.

- Enhanced public safety arising from electronic service of and instantaneous access to court orders (including domestic violence orders of protection) and warrants, and “greener” business processes.

Disadvantages of e-filing:

- Electronic filing is still limited to a tiny fraction of the nation’s state court systems.
- Many courts are reluctant to be on the “bleeding edge” of new technology, and some wait in the hope that best-practice standards will emerge.
- Some courts are unsure about the breadth of changes needed in traditional processes to reap the promised benefits of electronic filing.
- Vendors have been reluctant to invest the considerable expense and effort needed to design court-specific electronic filing applications in the face of dwindling government budgets.

4.4.2 E-Filing Standards

For further information on industry standards for electronic filing processes, please refer to the attached link from the National Center for State Courts: [NCSC Technology Standards](#).

4.5 Court Record Location Tracking

4.5.1 Paper Record Tracking

 There are few court activities that are more frustrating and wasteful of staff resources than searching for lost court records. By implementing effective tracking protocols and, depending on the court’s needs, by investing in tracking technologies (bar codes, RFID, etc.), significant staff time can be saved and deployed in more productive activities.

Automated tracking systems that use bar code or radio frequency technology to track the movement of court records are helpful in managing the check-in and check-out process. Automated tracking systems also can produce reports to assist records staff in locating missing records. Periodic physical inventory of all court records not on file shelving or in file rooms or warehouses can often uncover missing records and restore them to oversight by records custodians.

As described below, there are several common methods for monitoring the whereabouts of court records.

Out Cards

 Records custodians are encouraged to use an “out-card” system to track all records removed from file shelves or storage facilities. When a record is retrieved, an out-card can be inserted in the location from which the record was removed. Out-cards may include the name and contact information of the staff person who removed the record, the date the record was removed, and the destination of the record (courtroom, public viewing area, other

court facility, etc.). Out-card systems are “low tech,” are inexpensive to implement, and can be effective, especially in small courts with only one facility.

Bar Code Technology



Automated tracking systems that use bar codes are another option in managing the check-in and check-out process for court records and monitoring the movement of records. In a bar code system, every file folder is labeled with a bar code (every folder in a multivolume case record receives its own bar code). Key locations in the courthouse (judicial departments, public viewing areas, the accounting unit, off-site facilities, etc.) are also assigned a bar code and placed on a list at each bar code scanning location. Each bar code is associated in a tracking database with its corresponding folder or location. Then, as file folders are checked out of the filing system, the bar codes are scanned by records staff, as well as the destination of the file folder. For example, if a bar coded “civil file” was being routed to a specific judicial department, the folder and the department would be scanned so that the file would be tracked to the judicial department.

Bar code systems are relatively inexpensive, as they are not complex. A tracking application with a relational database and scanning stations and/or portable scanning wands are all that is needed to implement such a system. Bar code technology has been in use for many years and is very reliable. However, a major challenge for a court implementing the tracking system is in determining the number of locations that will be tracking destinations. The tendency to have every desk be a destination may sound like a good idea, but in practice may be too onerous for staff members who are processing hundreds of files a day. Developing a list of key locations that helps narrow the search in the event there is a lost file is typically the most advantageous. Another key decision is which staff person will be responsible for tracking the file to the next location—the staff person who is passing on a file or the staff person who is receiving it. Since the identity of the person scanning the file will be retained by the tracking system, it is critical to gain cooperation from all staff to use the technology with every file.

Automated tracking systems also can produce reports to show what was requested, when, and by whom. Many scanning systems have battery-powered portable scanners that records management staff can carry around the courthouse to periodically update the location of every file that is not in the filing area.

RFID Technology



Radio frequency identification device systems are a “high tech” and more expensive method for locating and tracking files. Like bar code technology, RFID tags are created and attached to file folders. RFID tags are “active” bar codes that can exchange information with a networked system to track every file. RFID tracking solutions save time by providing continuous, automatic tracking of files and other items as they move around the courthouse and pass through an area where an RFID reader is present. Like a traditional bar code, an RFID tag must be read. However, an RFID tag does not need to be physically scanned. It can be detected and read as it passes by a reader that can be mounted on a wall and up to 25 feet away. Staff members are relieved of the responsibility to scan files, as they are automatically monitored at all times by the technology, and their locations are typically

updated in real time. Records staff can locate files at any time by checking the tracking database online.

This technology has been cost prohibitive in the past, but in recent years the cost has been coming down. In situations where it is affordable, this technology could be beneficial for small to medium court systems.

4.5.2 Electronic File Tracking and Security



In CCMS the “Track Case Files” function describes the activities involved in changing the location of physical case files. This process incorporates maintaining a “chain of custody” during the location change of physical case file(s) and defining who has ownership of a physical case file at a particular place, time, and location. Case files may be tracked to separate locations (e.g., facility, department) within the court’s jurisdiction. Case files may also be located out of a court’s jurisdiction, in the event there is a change of venue.

The “Track Case Files” function also defines the activities involved in creating and tracking the case file, including the initial and subsequent volumes, as well as defining an indirect association between volumes and documents within the volumes. The CCMS user may choose to update the location of case files within the context of a case (selecting associated volumes) or outside the context of a case (in the scenario where a request may span multiple cases based on a court calendar or any other criteria).

5. Record Classification

California statutes define the characteristics of court case records, typically at the case type level. These requirements are contained in numerous code sections in law. To assist records managers in determining the correct classification of court case records, these characteristics and special records management directives are included in TCRM section 11.4, “Schedule of Records Retention and Destruction and Special Case Type Characteristics.”

It is important to recognize distinctions between case *categories* and case *types*. For records management purposes, sometimes case records are organized by case *category*, which groups case records together by common attributes such as operational or statistical reporting needs (i.e., case category = criminal). Case records can also be organized by case *type*, which groups case records together by common attributes such as retention periods or other statutory requirements (i.e., case type = felony).

The characteristics for each case *type* are described in section 11.4, “Schedule of Records Retention and Destruction and Special Case Type Characteristics.” They include whether

- the case type is classified as available to the public or confidential;
- there are special destruction or deletion/redaction requirements of portions of the case record; and
- there are requirements to maintain cases as confidential for a limited period of time, rather than the life of the case record.

5.1 Standard Record Classifications

5.1.1 Case Record Classification

The California judicial branch maintains an electronic statistical reporting system called the Judicial Branch Statistical Information System (JBSIS). JBSIS defines and collects summary information for each major case-processing area of the court and makes court data available via the JBSIS data warehouse. JBSIS was created to inform the Judicial Council on its policy and budgetary decisions, provide management reports for court administrators, and allow the Judicial Council to fulfill its legislative mandate to report on the business of the courts. The JBSIS system comprises 10 report types, which are broad case *categories* (e.g., Family Law report 6a) made up of a collection of individual case *types* (e.g., Paternity). The case categories and case types used in CCMS will be mapped to these existing report types and case types in the JBSIS system.

The standard case record classifications contained in the JBSIS system include the following:

Appeals

A classification category for cases appealed to the appellate or California Supreme Court as well as to the appellate division of the superior court.

Civil Cases

A broad classification category for trial court caseload involving lawsuits brought to redress private wrongs, such as breach of contract or negligence, or to enforce civil remedies, such as compensation, damages, and injunctions. The civil limited category captures cases for which the petitioner/plaintiff is seeking relief of less than \$25,000. The civil unlimited category captures cases for which the petitioner/plaintiff is seeking relief of \$25,000 or greater, including complex litigation and small claims appeals.

Family Law Cases

A major classification category of cases involving family actions, such as marital actions (e.g., dissolution), custody matters, family support, parental rights, and adoption.

Felony Cases

A criminal case category that involves an offense punishable by death or incarceration in a state prison.

Juvenile Delinquency Cases

A broad classification of cases filed against a minor for a violation of the law.

Juvenile Dependency Cases

A broad classification of cases filed on behalf of a minor by a social services agency, the parents, the minor, or others interested in the welfare of the minor. The purpose of this type of proceeding is to provide safety and protection for children who are abused, neglected, exploited, or at risk of harm.

Mental Health Cases

A broad classification of cases in which a trial court is asked to legally determine probable cause or lack of capacity of an individual because of

- mental illness
- developmental disability
- mental retardation
- addiction to narcotics
- or, in the case of an individual who has committed a crime, his or her competency to stand trial and whether the individual should be placed or should remain under care, custody, and treatment.

Misdemeanor and Infraction Cases

Misdemeanors are a category of crimes that are punishable, at the court's discretion, by imprisonment in county jail, by fine, or by both (Penal Code section 17). Infractions are a category of crimes other than felonies and misdemeanors, punishable by a fine or other penalty but not by incarceration.

Probate Cases

A broad classification category for trial court caseload that includes cases in which a court is asked to make a legal determination as to the disposition or transfer of decedents' assets, the

appointment of conservators and guardians, the internal affairs or existence of a trust, and other miscellaneous probate matters. Probate cases consist of decedents' estates, trusts, adult conservatorships, guardianships of minors, and miscellaneous probate proceedings.

Small Claims

A broad classification category for small claims cases that encompass a wide variety of case types in which the remedy sought is \$5,000 or less.

5.1.2 Prefiled Records

This category includes search warrants, wiretaps, probable cause declarations, grand jury indictments, and investigative reports pertaining to the release of a defendant on his or her own recognizance pursuant to Penal Code section [1318.1](#). Retention, destruction, and special characteristics of these records are described in section 11.4.3, "Schedule of Records Retention and Destruction for Prefiled and Juror Records."

5.1.3 Lodged Records

A lodged record is a record that is temporarily placed or deposited with the court, but not filed. (Cal. Rules of Court, rule [2.550\(b\)\(3\)](#).) Some records may be lodged with the court for long periods of time, such as wills and codicils. Other records may be lodged with the court only while awaiting a judicial ruling and, following the ruling, may or may not be returned to the depositor.

5.1.4 Exhibits

A document or object formally presented to the court as evidence. Exhibits management is described in section 7, "Exhibits Management."

5.1.5 Juror Records

For juror records, see section 11.4.3, "Schedule of Records Retention and Destruction for Prefiled and Juror Records."

5.2 Confidential and Sealed Records

Statutes define specific case types that are to be maintained as confidential records. Some types of records are confidential from the date the records are created and are never made available to the public. Other types of records may remain confidential for a period of time, and then become public.

Under rule [2.550](#) of the California Rules of Court, a sealed record is a record that by court order is not open to inspection by the public. Under rule [2.551\(f\)](#) sealed records must be securely filed and kept separate from the public record. Only a judicial officer has the authority to seal and unseal a record.

For a more detailed discussion of confidential and sealed records, see section 10.3, “Confidential and Sealed Records.”

5.3 Subpoenaed Records and Documents

Courts occasionally receive subpoenas for testimony or production of court records that are not made part of the court record. These documents are typically not file stamped and may or may not be lodged in the court record.

Under Evidence Code section [1560\(d\)](#), subpoenaed records delivered to the clerk of the court include

- lodging and handling (sealed envelope) subpoenaed records and items (Evid. Code, § 1560(d))
- return or destruction of subpoenaed records and items (Evid. Code, § 1560(d))

Under Evidence Code sections [1560\(c\)](#) and [1561](#), *subpoena duces tecum* served on the clerk of court to provide court records for

- preparation and delivery of records (Evid. Code, §§ 1560(c) and 1561)
- charges for preparation of documents

6. Storage, Maintenance, and Security of Records

6.1 Industry Standards for Storage of Paper and Electronic Records

6.1.1 Recommended Standards for Paper Records Storage Facilities



While there are no statutes or rules of court that provide guidance to trial courts in the area of storage facilities, the standards below offer best practices in records storage to improve the likelihood that paper records will not deteriorate over time. Courts are encouraged to review and comply with the standards below whenever possible. Standards for the storage of paper records are available from the American National Standards Institute (ANSI), Inc. These standards exclude records stored in central file areas and file rooms containing active records used and maintained in their office of origin, and records staging areas used for temporary storage of records before their transfer to an off-site records center.

ANSI recommends the following paper records storage and facilities standards:

1. Any records storage facility for public records should be constructed of noncombustible and fire-resistant materials. The facility should be of a nature that minimizes the potential for and the resultant effects of fire.
2. The facility should be a stand-alone structure. If the structure is shared with other tenants, fire walls of approved construction should separate the records storage facility from other areas in the building.
3. If the records storage facility is located in a structure with other nonrelated tenants, activities conducted in other parts of the building should not be of the nature that would create a hazard to the records stored there.
4. Access to the facility should be restricted to authorized personnel. Adequate security procedures and systems should be provided to prevent loss, theft, or destruction of public records and to ensure the safety and integrity of the public records stored there.
5. A records storage facility should maintain a fire prevention program based on good housekeeping practices. Smoking, use of open flame devices, or the presence of flammable materials should be prohibited in storage areas.
6. The facility should have appropriate fire detection and suppression systems with procedures in place to ensure their effectiveness.
7. A slightly positive air pressure balance should be maintained within the records storage area so as to ensure (1) consistency of temperature and relative humidity and (2) minimize infiltration of contaminants.
8. Air handling ducts should be equipped with fire detectors and applicable shutoff apparatus.
9. The facility should have a power supply sufficient to maintain environmental controls, security, lighting, and fire detection and suppression equipment.
10. No cellulose nitrate films should be stored in the facility.
11. All door openings of the records storage facility should be fitted with suitable and approved fire-resistant doors.

12. All electrical wiring within the facility, exclusive of low-power alarm circuits, should be encased in an approved conduit.
13. Portable fire extinguishers of a type appropriate for Class A fires should be readily accessible inside and immediately outside the record storage area.
14. All records storage containers within a facility should be kept at least six inches from piping or conduits.
15. Work, reference, and storage areas should be constructed so as to avoid prolonged exposure of archival records to direct or indirect sunlight, which contains ultraviolet rays that can damage archival material. Ultraviolet light filters should be placed on all fluorescent lights in areas where archival records are stored, displayed, processed, or researched.
16. Storage containers, folders, and other enclosures for archival material should be constructed of acid-free buffered, lignin-free paper or other material free of harmful off-gassing material.

6.1.2 Electronic Records

Electronic records are text or data files that are created and stored in digitized form through the use of computers and applications software. They are stored on various magnetic and optical storage devices. The format of an electronic document does not change the fact that it is a record, but its electronic form and its dependence on machines for creation and reference do change the way these records must be stored and managed.

Electronic and Other Technology Options for Records Storage

- SAN (storage area network)
- NAS (network attached storage)
- RAID (redundant array of independent disks)
- Optical Disc (primarily WORM, write-once, read-many)
- DVD (digital versatile disc)
- Tape
- Microfilm (aperture cards, microfiche, microfilm jackets, 16 mm roll film)
- CAS (content-addressable storage)

6.2 Security and Protection

(The content for this section will be addressed in TCRM Version 2.0.)

7. Exhibits Management

Exhibits management is a fundamental responsibility of records managers. Accepting, maintaining, returning, and disposing of exhibits is generally the responsibility of the clerk of the court, unless the court orders otherwise.



Each trial court is encouraged to develop local procedures for managing exhibits, including

- scheduling periodic physical inventory of exhibits,
- handling of dangerous or biohazard exhibits,
- handling of exhibits with a high monetary value,
- transferring custody of exhibits between courtroom staff and exhibits custodians,
- monitoring the movement of exhibits from courtrooms to vaults or exhibit rooms,
- permitting the public viewing of exhibits,
- accounting for lost exhibits,
- alerting parties when exhibits are available to be returned or destroyed,
- managing exhibits while cases are under appeal,
- requesting extension of time for the court to retain exhibits, and
- notifying entities designated by the Judicial Council of the court's intent to destroy felony or unlimited civil records, pursuant to rule [10.856](#) of the California Rules of Court.

Pursuant to rule [2.400\(c\)\(1\)](#) of the California Rules of Court, the clerk must not release any exhibit except on order of the court. The clerk must require a signed receipt for a released exhibit.

7.1 Receiving, Handling, and Transfer of Exhibits in Criminal Cases

Pursuant to Penal Code section [1417](#), all exhibits that have been introduced or filed in any criminal action or proceeding shall be retained by the clerk of the court, who shall establish a procedure to account for the exhibits properly, subject to Penal Code sections [1417.2](#) and [1417.3](#), until final determination of the action or proceedings, and the exhibits shall thereafter be distributed or disposed of as provided in the code.

7.2 Receiving, Handling, and Transfer of Exhibits in Civil Cases

Pursuant to Code of Civil Procedure section [1952](#), all exhibits introduced, lodged, or filed in any civil or small claims action or proceeding shall be retained by the clerk of the court for 60 days following the judgment date or date of appellate decision.

Pursuant to Code of Civil Procedure section [1952.3](#), exhibits related to sealed civil files must be retained for an additional two years beyond the date that they would have been destroyed had the records not been sealed.

7.3 Protocols for Dangerous and Biohazard Exhibits



The court may adopt local orders or rules that address the custodial responsibilities for managing exhibits that are dangerous or contain biohazard materials. Courts may make arrangements with prosecuting agencies or local law enforcement agencies to secure such exhibits in their own secure evidence lockers or vaults, as an alternative to having court staff handle these dangerous items.

As noted in Penal Code section [1417.9\(a\)\(b\)](#) notwithstanding any other provision of law, the court shall retain all biological material that is secured in connection with a criminal case for the period of time that any person remains incarcerated in connection with that case. The court shall have the discretion to determine how the evidence is retained pursuant to this section, provided that the evidence is retained in a condition suitable for deoxyribonucleic acid (DNA) testing. The court may dispose of biological material before the expiration of the period of time described in Penal Code section [1417.9\(b\)](#).

7.3.1 Exhibits That Pose a Security, Storage, or Safety Problem (Pen. Code, § 1417.3(a))

The clerk may recommend the return of exhibits that pose security, storage, or safety problems prior to the final determination of the actions or proceedings.

If an exhibit by its nature is severable, the court shall order the clerk to retain a portion of the exhibit not exceeding three pounds by weight or one cubic foot by volume and shall order the return of the balance of the exhibit to the district attorney.

The clerk, upon court order, shall substitute a full and complete photographic record of any exhibit or part of any exhibit returned to the state under this section. The party to whom the exhibit is being returned shall provide the photographic record. (Pen. Code, § [1417.3\(a\)](#))

7.3.2 Exhibits That Are Toxic (Pen. Code, § 1417.3(b))

Exhibits toxic by their nature that pose a health hazard to humans shall be introduced to the court in the form of a photographic record and a written chemical analysis certified by competent authority.

Where the court finds that good cause exists to depart from this procedure, toxic exhibits may be brought into the courtroom and introduced. However, following introduction of the exhibit, the person or persons previously in possession of the exhibit shall take responsibility for it, and the court shall not be required to store the exhibit. (Pen. Code, § [1417.3\(b\)](#))

7.3.3 Dangerous or Deadly Weapons, Poisonous Drugs, Explosives, or Any Property Prohibited by Law (Pen. Code, § 1417.6(a)) and Biological Material for DNA Testing (Pen. Code, § 1417.9(a))

Any of this property introduced or filed as an exhibit shall not be returned under the provisions of Penal Code section [1417.6\(a\)](#), but instead, by order of the trial court, be destroyed or otherwise disposed of under the conditions provided in the order no sooner than 60 days after the final determination of the criminal action or proceeding. For biological material introduced or filed as an exhibit in connection with a criminal case under the provisions of Penal Code section [1417.9\(a\)](#), the appropriate governmental entity shall retain for the period of time that any person remains incarcerated in connection with that case. The governmental entity shall have the discretion to determine how the evidence is retained pursuant to this section, provided that the evidence is retained in a condition suitable for DNA testing.

7.4 Protocols for Cash Value, Historical Value, Narcotics, Sensitive Photographs, Private Property

7.4.1 Exhibits Composed of Money or Currency of Unknown Ownership (Pen. Code, § 1417.5(c)(4) & §§ 1420–1422)

If the party entitled to money or currency fails to apply for the return of the exhibit prior to the date for disposition under Penal Code section [1417.5](#), the exhibit shall be disposed of pursuant to Penal Code section [1420](#).

All money received by a district attorney or clerk of the court in any criminal action or proceeding, the owner or owners of which are unknown, and which remains unclaimed in the possession of the district attorney or clerk of the court after final judgment in the criminal action or proceeding, shall be deposited with the county treasurer. Upon the expiration of two years after the deposit, the county treasurer shall cause a notice pursuant to Penal Code section [1421](#) to be published once a week for two successive weeks in a newspaper of general circulation published in the county.

The notice shall state the amount of money, the criminal action or proceeding in which the money was received by the district attorney or clerk of the court, the fund in which it is held and that it is proposed that the money will become the property of the county on a designated date not less than 45 days nor more than 60 days after the first publication of the notice.

Unless someone files a verified complaint seeking to recover all, or a designated part, of the money in a court of competent jurisdiction within the county in which the notice is published, and serves a copy of the complaint and the summons issued thereon upon the county treasurer before the date designated in the notice, upon that date the money becomes the property of the county and shall be transferred by the treasurer to the general fund.

7.4.2 Exhibits Composed of Stolen or Embezzled Money or Currency (Pen. Code, § 1417.5(c)(1))

If the party entitled to stolen or embezzled money or currency fails to apply for the return of the exhibit prior to the date for disposition under Penal Code section [1417.5](#), the exhibit shall be disposed of pursuant to Penal Code section [1417.6](#).

7.4.3 Exhibits Composed of Property Other Than Money or Currency That Is Unclaimed (Pen. Code, § 1417.5(c)(3))

Exhibits of property, other than money, currency, or stolen or embezzled property, that are determined by the court to have no value at public sale shall be destroyed or otherwise disposed of pursuant to court order. (Pen. Code, § [1417.5\(c\)\(3\)](#))

7.4.4 Exhibits Composed of Property of Value That Is Unclaimed (Pen. Code, § 1417.5(c)(2))

Exhibits of property other than property that is stolen or embezzled or property that consists of money or currency shall, except as otherwise provided in this paragraph and in paragraph (3), be transferred to the appropriate county agency for sale to the public in the same manner provided by Article 7 (commencing with Section 25500) of Chapter 5 of Part 2 of Division 2 of Title 3 of the Government Code for the sale of surplus personal property. If the county determines that any property is needed for a public use, the property may be retained by the county and need not be sold. (Pen. Code, § [1417.5\(c\)\(2\)](#))

7.4.5 Exhibits Composed of Photographs of Minors Deemed Harmful (Pen. Code, § 1417.8(a))

Prior to the final determination of the action or proceeding, the photograph of any minor that has been found by the court to be harmful matter, as defined in Penal Code section [313](#), shall be available only to the parties or to a person named in a court order to receive the photograph.

After the final determination of the action or proceeding, the photograph shall be preserved with the permanent record maintained by the clerk of the court. The photograph may be disposed of or destroyed after preservation through any appropriate photographic or electronic medium. If the photograph is disposed of, it shall be rendered unidentifiable before the disposal. No person shall have access to the photograph unless that person has been named in a court order to receive the photograph. Any copy, negative, reprint, or other duplication of the photograph in the possession of the state, a state agency, the defendant, or an agent of the defendant shall be delivered to the clerk of the court for disposal whether or not the defendant was convicted of the offense. (Pen. Code, § [1417.8\(a\)](#))

7.5 Death Penalty Exhibits

In cases where the death penalty is imposed, exhibits may be destroyed 30 days after the date of execution of sentence. (Pen. Code, §[1417.1\(d\)](#).)

8. Public Calendars, Indexes, and Registers of Action Minimum Standards

Court calendars are listings of individual cases prepared for use by the clerk of the court and other courtroom personnel in calling cases in an orderly manner. They provide the public with the ability to research and locate court events for a particular individual, case number, or cases being heard on a given day. Public court calendars may be discarded after they are no longer of use.

Indexes are important records of all public cases filed in the court, except infractions and confidential case types, and serve as a cross-reference of case names to the case numbers. Courts are encouraged to create a linkage, preferably automated, between new records entered in case management systems and entries in public indexes. Ideally, a public index entry is created at the same time a new case is filed with the court. Indexes available to the public shall not contain information restricted by statute or rule of court.

Registers of actions, also known as dockets, provide a chronological list of actions taken by the court, as well as some or all of the documents filed in the court. Since the register of actions represents the history of activities in a case, it is vital that it be updated regularly and with as much information as possible.

Under rule [2.503\(b\)](#) of the California Rules of Court, electronic access to court calendars, indexes, and registers of actions may be available both remotely and at the courthouse, to the extent it is feasible.

8.1 Minimum Content for Court Calendars, Indexes, and Registers of Action

Rule [2.507\(b\)](#) of the California Rules of Court specifies the minimum content requirements for electronically accessible court calendars, indexes, and registers of action.

The electronic court calendar must include

- date of court calendar,
- time of calendared event,
- court department number,
- case number, and
- case title (unless made confidential by law).

The electronic index must include

- case title (unless made confidential by law),
- party names (unless made confidential by law),
- party type,

- date on which the case was filed, and
- case number.

The register of actions must be a summary of every proceeding in a case, in compliance with Government Code section [69845](#), and must include

- date case commenced,
- case number,
- case type,
- case title (unless made confidential by law),
- party names (unless made confidential by law),
- party type,
- date of each activity, and
- description of each activity.

8.2 Historical Data Fields Restrictions

Under rule [2.507\(c\)](#) of the California Rules of Court, the following information must be excluded from court electronic calendar, index, and register of actions:

- social security number,
- any financial information,
- arrest warrant information,
- search warrant information,
- victim information,
- witness information,
- ethnicity,
- age,
- gender,
- government-issued identification card numbers (i.e., military),
- driver's license number, and
- date of birth.

9. Disaster Recovery Planning and Procedures

9.1 Planning for a Disaster



Effective disaster recovery planning and procedures are critical to court records management. In the event of a disaster, a well-planned and well-managed recovery plan can provide expedient access of court records for the court and the general public. Disaster planning, response, and recovery are key components of a comprehensive records management program. The best planning for a disaster is the systematic and full implementation of each major component of a court records management program.

9.2 Response to Disasters



Courts are encouraged to take decisive action after a disaster. The first priority is to assess the scope and nature of the damage to equipment, facilities, and records. It is recommended that the records manager assess the effect of the disaster on records as soon as it is safe to enter the affected area. It is critical to document the location, type, quantity of records affected, and the nature and severity of damage. Once this is accomplished, the prioritization of the recovery plan can proceed.

The court's continuity of operations plan (COOP) prioritizes the functions that are critical if the court will be closed for any period of time, from one day to one week or longer. The COOP can also provide a beneficial guide to prioritizing records recovery efforts. A much different response, but no less urgent, would be called for if the disaster were to affect a remote records facility that holds infrequently accessed archival records. These records may not be needed to resume court operations, but the court has an obligation to safeguard all records under its control.

Data redundancy is a key feature of any effective disaster recovery plan. As this concept relates to court records, redundancy can be created by storing a complete copy of film, magnetic, optical, and digital data at a secure facility at least 50 miles from the court. Several companies specialize in this kind of records storage and will work with the court to create a regular schedule to deliver backup copies of court data to the off-site facility.

9.3 Disaster Recovery



The objective of disaster recovery is to salvage records efficiently and economically while attempting to preserve their integrity for future use. Recovery seeks to salvage or reconstruct case-related information on active files and preserve closed records for at least the minimum retention period required. The severity of the underlying disaster may make such efforts impractical or impossible, but a full assessment should be made of the condition of court records prior to making decisions about recovery.

- Preliminary concerns: Records managers must thoroughly understand the content of the records inventory, including the affected record series and their retention and disposition dates, and their relative importance for the court's daily operations.
- Salvage operations: When records are damaged (soaked, burned, buried, etc.), effective salvage operations require coordination and speed. Mitigating and reversing damage becomes more difficult the longer the salvage effort is delayed.

Creating a master list of the damaged records launches the salvage effort. If the records inventory is complete and current, this list will be relatively easy to compile. Determining whether the damaged records can be duplicated from other sources (microfilm, optical discs, etc.) is the next step. If copies of microfilmed and electronic records are stored at an alternate location, any damaged working copies of microfilm or electronic records may be reconstructed from the off-site originals.

Salvageable records should be examined to determine what can be saved, what was lost or irreparably damaged, and what can be destroyed. Records managers should catalog salvageable records to keep track of their identity and whereabouts throughout the salvage process.

After the preliminary analysis and inventory, salvage efforts may begin. The AOC may be able to assist courts with locating specialists, equipment, and supplies needed to address the specific type of damage to the records. The proper procedures to follow for different kinds of damage are available in many records management sources.

The primary objective of a disaster recovery effort is to salvage active cases and court orders from closed cases. There may be other permanent, intrinsically valuable documents, however, that also deserve priority attention in salvage operations. Courts are legally required to maintain these permanent records, even if they are not vital records, because of their continuing historical, legal, and aesthetic value. Salvageable permanent records that have enduring value shall not be authorized for destruction. Courts may postpone restoring these records, however, once their condition has been stabilized and delayed application of conservation techniques will not cause further deterioration.

Information related to disaster recovery efforts may be updated periodically, and preferably annually. The records inventory, storage area diagrams, contacts (including names, addresses, and telephone numbers), as well as the court's COOP and other policies and procedures are important source documents in any disaster recovery effort.

10. Public Access to Court Records

10.1 Public Access to Trial Court Records

10.1.1 Paper Court Records

Court records are presumed to be open, unless they are confidential as a matter of law or are sealed by court order. Confidential and sealed records are described in section 10.3, “Confidential and Sealed Records.”

For information on filing systems for paper records, see section 4.3, “Filing Systems for Court Records Maintained in Paper Format”; for the tracking of paper records, see section 4.5.1, “Paper Record Tracking.”

10.1.2 Electronic Court Records

Rules [2.500–2.507](#) of the California Rules of Court are intended to provide the public with reasonable access to trial court records that are maintained in electronic form while protecting privacy interests. The rules are not intended to give the public a right of access to any electronic record that they are not otherwise entitled to access in paper form, and do not create any right of access to records sealed by court order or confidential as a matter of law. These rules apply only to trial court records and only to access to court records by the public. They do not prescribe the access to court records by a party to an action or proceeding, by the attorney for a party, or by other persons or entities that may be entitled to such access by statute or rule.

10.2 Remote Electronic Access Allowed in High-Profile Criminal Cases

One of the most time-consuming tasks for court staff is serving the demand for court records from the media and public interested in a high-profile criminal case. The use of technology can assist the court in dealing with the large number of requests for court records pertaining to these types of cases.

Under rule [2.503\(e\)](#) of the California Rules of Court, the presiding judge or a designated judge may order the records of a high-profile criminal case to be posted on the court’s Web site to enable faster and easier access to these records by the media and public. This rule specifies several factors that judges must consider before taking such action. Prior to posting, staff should, to the extent feasible, redact any confidential information contained in the court documents in accord with California Rules of Court, rule [2.503\(e\)\(2\)](#). In addition, five days’ notice must be provided to the parties and the public before the court makes a determination to provide electronic access under this rule. Notice to the public may be accomplished by posting notice on the court’s Web site. Once issued, a copy of the order must also be posted on the Web site.

10.3 Confidential and Sealed Records

10.3.1 Confidential Records

A nonexhaustive list of records that are exempt from the presumption of public disclosure by statute, regulation, court rule, or case law is provided below.¹ This list of confidential records is divided into criminal, civil, family and juvenile, probate, and protective order records and jury information. As indicated below, there are some records that by law are strictly confidential and others that may be confidential in particular circumstances. Sealed records, including those that fall under Evidence Code § [1040](#) et seq., are discussed in section 10.3.2.

Criminal Case Records

Records that are confidential

1. Indigent defendant requests for funds: A request for funds for payment of investigators, experts, and others to aid in presenting or preparing the defense in certain murder cases is confidential. This exemption applies to defendants in capital and life without parole murder cases under Penal Code section [190.05\(a\)](#). (Pen. Code, § [987.9](#).)
2. Arrest records: The arrest record for a defendant found to be factually innocent is confidential. (Pen. Code, §§ [851.8](#), [851.85](#).)
3. Psychiatric records or reports: Reports prepared at the request of defense counsel to determine whether to enter or withdraw a plea based on insanity or mental or emotional condition are confidential. (Evid. Code, § [1017](#).) However, most psychiatric reports prepared at the court's request are presumed open to the public. (See Evid. Code, § [1017](#); Evid. Code, § [730](#) [report by a court-appointed expert]; Pen. Code, § [288.1](#) [report on sex offender prior to suspension of sentence]; Pen. Code § [1368](#) [report concerning defendant's competency]; and Pen. Code §§[1026](#), [1027](#) [report on persons pleading not guilty by reason of insanity].)
4. Probation reports: Probation reports filed with the court are confidential *except* that they may be inspected
 - by anyone up to 60 days after either of two dates, whichever is earlier: (1) when judgment is pronounced, or (2) when probation is granted;
 - by any person pursuant to a court order;
 - if made public by the court on its own motion; and
 - by any person authorized or required by law. (Pen. Code, § [1203.05](#).)
5. Defendant's Statement of Assets Form (CR-115): This mandatory Judicial Council form is confidential in the same manner as probation reports. (See Pen. Code, § [1202.4](#).)
6. Presentencing diagnostic reports under Penal Code section [1203.03](#): The report and recommendation from the 90-day Department of Corrections presentencing diagnosis should be released only to defendant or defense counsel, the probation officer, and the

¹ See Appendix 1 for chart containing a more complete list of types or cases or documents that may be confidential by statute or rule.

- prosecuting attorney. After the case closes, only those persons listed immediately above, the court, and the Department of Corrections may access the report. Disclosure to anyone else is prohibited unless the defendant consents. (Pen. Code, § [1203.03, subd. \(b\).](#))
7. Victim impact statements: Victim impact statements filed with the court must remain under seal until imposition of judgment and sentence, except that the court, the probation officer, and counsel for the parties may review such statements up to two days before the date set for imposition of judgment and sentence. (Pen. Code, § [1191.15, subd. \(b\).](#)) Victim impact statements shall not be otherwise reproduced in any manner. (Pen. Code, § [1191.15, subd. \(c\).](#))
 8. Criminal history information rap sheets: Summaries of criminal history information are confidential. (*Westbrook v. Los Angeles* (1994) 27 Cal.App.4th 157, 164; Pen. Code, §§ [11105](#) and [13300–13326](#).) Public officials have a duty to preserve the confidentiality of a defendant’s criminal history. (*Craig v. Municipal Court* (1979) 100 Cal.App.3d 69, 76.) Unauthorized disclosure of criminal history violates a defendant’s privacy rights under the California Constitution. (*Ibid.*) Courts have upheld the confidentiality assigned to criminal history records. (See, e.g., *Westbrook v. Los Angeles* (1994) 27 Cal.App.4th 157 [unauthorized private company was denied access to municipal court information computer system].)
 9. Reports concerning mentally disordered prisoners: Reports under Penal Code section [4011.6](#) to evaluate whether prisoners are mentally disordered are confidential. (Pen. Code, § 4011.6.)

Records that may be confidential

1. Police reports: There is no specific statute, rule, or decision addressing the confidentiality of a police report once it has become a “court record.” Generally speaking, a police report that has been used in a judicial proceeding or is placed in a court file is presumed to be open to the public. Many police reports, however, contain sensitive or personal information about crime victims, witnesses, and other third parties. Penal Code section [1054.2](#) provides that defense counsel may not disclose the address or telephone number of a victim or witness to the defendant or his or her family. Similarly, law enforcement agencies are prohibited from disclosing the address and phone number of a witness or victim, or an arrestee or potential defendant. (Pen. Code, § [841.5](#).) We suggest that courts should require that personal information be redacted *before* the report is filed with the court or used in a judicial proceeding.
2. Search warrants: It is within the court’s discretion to seal the court documents and records of a search warrant until the warrant is executed and returned, or until the warrant expires. (Pen. Code, § [1534, subd. \(a\).](#)) Thereafter, if the warrant has been executed, the documents and records shall be open to the public as a judicial record.
3. Identity of sex offense victims: The victim of an alleged sexual offense may request anonymity from the court. Upon a proper showing, the judge may order the identity of the victim in all records and during proceedings to be either “Jane Doe” or “John Doe” if the judge finds that such an order is reasonably necessary to protect the

- alleged victim’s privacy and that such measures will not unduly prejudice the prosecution or defense. (Pen. Code, § [293.5](#).)
4. Records from federally funded drug rehabilitation centers: The Code of Federal Regulations provides that information that would disclose the identity of a person receiving treatment for drug or alcohol abuse under a federally funded program is confidential. (42 C.F.R. § [2.12](#).) For example, the drug court program receives federal funding. Thus any information that would disclose the names of persons in that program appears to be confidential. Notably, the confidentiality provisions governing federally funded programs are quite broad and include information from a program funded in part by special or general revenue sharing program that receives federal funding. (See *ibid.* at § 2.12(b)(3).)
 5. Records of arrest or conviction for marijuana possession or other related offense: These records must be destroyed two years from the date of conviction or arrest if there was no conviction. (Health & Saf. Code, § [11361.5, subd. \(c\)](#).) This rule is subject to exceptions for offenders under 18 years of age, records from judicial proceedings, and records related to an offender’s civil action against a public entity. (See Health & Saf. Code, § [11361.5](#).) Public agencies are prohibited from using information in records subject to destruction, even if they have not yet been destroyed. (Health & Saf. Code, [11361.7, subd. \(b\)](#).)

Civil Case Records

Records that are confidential

1. Fee waiver applications: Applications to proceed without paying court fees and costs are confidential. (Cal. Rules of Court, rule [3.54](#).)
2. Unlawful detainer proceedings: Court files and records in unlawful detainer proceedings are not publicly available until 60 days after the case is filed, except for persons specified by statute, unless a defendant prevails in the action within 60 days of the filing of the complaint, in which case the clerk may not allow access to any court records in the action except to persons specified in the statute. An exception excludes records of mobile home park tenancies from this code section; those records are not confidential. In addition, effective January 1, 2011, access to court records in unlawful detainer proceedings is permanently limited to persons specified in the statute in the case of complaints involving residential property based on section [1161a](#) (holding over after sale under execution, mortgage, or trust deed [foreclosures]) as indicated in the caption of the complaint, unless judgment has been entered, after a trial, for the plaintiff and against all defendants. (Code Civ. Proc., § [1161.2](#).) The complaints in these actions shall state in the caption: “Action based on Code of Civil Procedure Section [1161a](#).”(Code Civ. Proc., § [1166\(c\)](#).)
3. Confidential Statements of Taxpayer’s Social Security Number in garnishment cases (forms [WG-021](#) and [WG-025](#)): These mandatory Judicial Council forms for use in connection with wage garnishments are confidential.²

² Any Judicial Council form that is now or hereafter labeled or entitled “CONFIDENTIAL” should not be disclosed except as ordered by a judge.

4. False Claims Act Cases: The documents initially filed in cases under the False Claims Act are confidential under Government Code section [12650](#) et seq. The complaint and other initial papers should be attached to a Confidential Cover Sheet—False Claims Action (form [MC-60](#)). The cover sheet contains a place where the date on which the sealing of the records in the case expires.

Records that may be confidential

1. Records and documents in attachment cases: At the time of filing, the plaintiff can request that records in the action not be made publicly available. In such a case, the clerk must maintain the records as confidential until 30 days after the filing of the complaint, or until the filing of the return of service of the notice of hearing and any temporary protective order, or of the writ of attachment if issued without notice, whichever occurs first. (Code Civ. Proc., § [482.050, subd. \(a\).](#))

Confidentiality Provisions Relevant to Both Criminal and Civil Cases

Records that are confidential

1. Records of mental health treatment or services for the developmentally disabled, including LPS proceedings: Under Welfare and Institutions Code sections [5328](#) and [5330](#), the following records are confidential and can be disclosed only to recipients authorized in Welfare and Institutions Code section 5328: records related to the Department of Mental Health (Welf. & Inst. Code, § [4000](#) et seq.); Developmental Services (Welf. & Inst. Code, § [4400](#) et seq.); Community Mental Health Services (Welf. & Inst. Code, § [5000](#) et seq.); services for the developmentally disabled (Welf. & Inst. Code, § 4500 et seq.); voluntary admission to mental hospitals (Welf. & Inst. Code, § [6000](#) et seq.); and mental institutions (Welf. & Inst. Code, § [7100](#) et seq.).
2. Subpoenaed business records: Subpoenaed business records of nonparty entities are confidential until introduced as evidence or entered into the record. (Evid. Code, § [1560, subd. \(d\).](#))
3. Social security numbers and financial account numbers: California Rules of Court, rule [1.20](#), imposes a duty on the parties or their attorneys to redact certain identifiers from documents filed with the court. It is the responsibility of the filers to exclude or redact the identifiers. The rule states that court clerks will not review each pleading or other paper for compliance with the requirements of the rule. In an appropriate case, the court on a showing of good cause may order a party filing a redacted document to file a Confidential Reference List (form MC-120) identifying the redacted information. This form is confidential.

Family and Juvenile Court Records

Records that are confidential

1. Juvenile Court records: Welfare and Institutions Code section [827](#) and California Rules of Court, rule [5.552](#), establish broad restrictions on the disclosure of juvenile

- court records. These laws reflect a general policy that, with certain limited exceptions, juvenile court records should remain confidential. (*In re Keisha T.* (1995) 38 Cal.App.4th 220, 225.) Specifically, section 827(a)(1)(P) permits juvenile court records to be inspected only by certain specified persons and “any other person who may be designated by court order of the judge of the juvenile court upon filing a petition.” There is also an exception to this rule of confidentiality for certain records in cases brought under Welfare and Institutions Code section 602, in which the minor is charged with one or more specified violent offenses. (Welf. & Inst. Code, § [676](#).) In such cases, the charging petition, the minutes, and the jurisdictional and dispositional orders are available for public inspection (Welf. & Inst. Code, § [676, subd. \(d\)](#)), unless the juvenile court judge enters an order prohibiting disclosure (Welf. & Inst. Code, § [676, subd. \(e\)](#)). Thus, except for records enumerated in Welfare and Institutions Code section 676, if a record is part of a juvenile court file, it should be kept confidential and disclosed only as permitted under Welfare and Institutions Code section 827 and rule 5.552.
2. Records of adoption proceedings: Documents related to an adoption proceeding are not open to the public. Only the parties, their attorneys, and the Department of Social Services may review the records. The judge can authorize review by a requestor only in “exceptional circumstances and for good cause approaching the necessitous.” (Fam. Code, § [9200, subd. \(a\)](#).) Any party to the proceeding can petition the court to have redacted from the records, before copy or inspection by the public, the name of the birth parents and information tending to identify the birth parents. (Fam. Code, § [9200, subd. \(b\)](#).)
 3. Child custody evaluation reports: These reports must be kept in the confidential portion of the family law file and are available only to the court, the parties, their attorneys, federal or state law enforcement, judicial officer, court employee or family court facilitator for the county in which the action was filed (or employee or agent of facilitator), counsel for the child, and any other person upon order of the court for good cause. (Fam. Code §§ [3025.5](#) and [3111](#).)
 4. Child custody mediator recommendations: These recommendations must be kept in the confidential portion of the family law file and are available only to the court, the parties, their attorneys, federal or state law enforcement, judicial officer, court employee or family court facilitator for the county in which the action was filed (or employee or agent of facilitator), counsel for the child, and any other person upon order of the court for good cause. (Fam. Code §§ [3025.5](#) and [3183](#).)
 5. Written statements of issues and contentions by counsel appointed for child: These written statements must be kept in the confidential portion of the family law file and are available only to the court, the parties, their attorneys, federal or state law enforcement, judicial officers, court employees or family court facilitators for the county in which the action was filed (or employee or agent of facilitator), counsel for the child, and any other person, upon order of the court, for good cause. (Fam. Code, §§ [3025.5](#), [3151\(b\)](#).)
 6. Uniform Parentage Act documents: Records in Uniform Parentage Act proceedings, except the final judgment, are not open to the public. (Fam. Code, § [7643, subd. \(a\)](#).) If a judge finds that a third party has shown good cause and finds exceptional

- circumstances, the court may grant that person access to the records. (*Ibid.*) This includes records from paternity actions.
7. Family conciliation court records: These records are confidential. The judge of the family conciliation court can grant permission for a party to review certain documents. (Fam. Code, § [1818, subd. \(b\).](#))
 8. Proceeding to terminate parental rights: Documents related to such proceedings are confidential; only persons specified by law may review the records. (Fam. Code, § [7805.](#))
 9. Support enforcement and child abduction records: Support enforcement and child abduction records are generally confidential; these records may be disclosed to persons specified by statute only under limited circumstances. In certain instances, the whereabouts of a party or a child must not be revealed to the other party or his or her attorneys. A local child support agency must redact such information from documents filed with the court. (Fam. Code, § [17212.](#))
 10. Income tax returns in support cases: In a proceeding involving child, family, or spousal support, if a judge finds that a tax return is relevant to disposition of the case, the tax return must be sealed and maintained as a confidential record of the court. (Fam. Code, § [3552.](#))

Records that may be confidential

1. Sealed juvenile records: The court may order the records of a former ward of the court to be sealed. (Welf. & Inst. Code, § [781](#); Cal. Rules of Court, rule [5.830.](#)) If the court so orders, all the records described in section 781 must be sealed. (See 10.3.2 below.)

Probate Case Records

Records that are confidential

1. *Confidential Guardian Screening Form* (form [GC-212](#)): This mandatory Judicial Council form regarding the proposed guardian is confidential. It is used by the court and by persons or agencies designated by the court to assist in determining whether a proposed guardian should be appointed. (Cal. Rules of Court, rule [7.1001\(c\).](#))
2. *Confidential Supplemental Information* (form [GC-312](#)). This form regarding the proposed conservatee is confidential. It shall be separate and distinct from the form for the petition. The form shall be made available only to parties, persons given notice of the petition who have requested this supplemental information, or who have appeared in the proceedings, their attorneys, and the court. The court has the discretion to release the information to others if it would serve the interest of the conservatee. The clerk shall make provisions for limiting the disclosure of the report exclusively to persons entitled thereto. (Probate Code, [1821\(a\).](#))
3. *Confidential Conservator Screening Form* (form [GC-314](#)): This mandatory Judicial Council form is confidential. (Cal. Rules of Court, rule [7.1050\(c\).](#))
4. Reports regarding proposed conservators or guardianship: An investigative report created pursuant to Probate Code section [1513](#) concerning a proposed guardianship is

- confidential and available only to parties served in the action or their attorneys (generally, parents, legal custodian of child). An investigative report created pursuant to Probate Code section [1826](#) regarding the proposed conservatee is confidential and available only to those persons specified by statute. Under the statute, the reports on proposed conservatees shall be made available only to parties, persons given notice of the petition who have requested the report, or who have appeared in the proceedings, their attorneys, and the court. The court has the discretion to release the information to others if it would serve the interest of the conservatee. The clerk shall make provisions for limiting the disclosure of the reports on guardianships and conservatorships exclusively to persons entitled thereto. (Prob. Code, §§ [1513, subd. \(d\)](#) and [1826, subd. \(n\)](#).)
5. Investigator's review reports in conservatorships: These reports are confidential. The information in the reports may be made available only to parties, persons identified in section [1851\(b\)](#), persons given notice who have requested the report or appeared in the proceeding, their attorneys, and the court. The court has the discretion to release the information to others if it would serve the interests of the conservatee. The clerk shall make provisions for limiting the disclosure of the report exclusively to persons entitled thereto. (Prob. Code, §§ [1851, subd. \(b\) and \(e\)](#).) Subdivision (b) provides for special restricted treatment of attachments containing medical information and confidential criminal information from California Law Enforcement Telecommunications System (CLETS). Although the attachments are not mentioned in (e), it is recommended, to be consistent with (b), that they be treated as confidential except to the conservator, conservatee, and their attorneys.
 6. Certification of counsel of their qualifications (form [GC-010](#)) and certification of completion of continuing education (form [GC-011](#)): The forms state that they are "confidential for court use only." They are governed by rule [7.1101](#), which states only that the certifications must be submitted to the court but not lodged or filed in a case file. (Cal. Rules of Court, rule [7.1101](#).)

Protective Orders

Records that are confidential

1. *Confidential CLETS Information* (forms [DV-260/CH-102/EA-102/JV-248/SV-102](#), and [WV-102](#)): Judicial Council forms have been developed for petitioners in protective order proceedings to use to submit information about themselves and the respondents to be entered through the CLETS into the California Restraining and Protective Order System (CARPOS), a statewide database used to enforce protective orders. These forms are submitted to the courts by petitioners in many types of protective order proceedings, including proceedings to prevent domestic violence, civil harassment, elder and dependent adult abuse, private postsecondary school violence, and juvenile cases. The information on the forms is intended for the use of law enforcement. The forms are confidential. Access to the information on the forms is limited to authorized court personnel, law enforcement, and other personnel authorized by the California Department of Justice to transmit or receive CLETS

information. The forms must not be included in the court file. (Cal. Rules of Court, rule 1.51.)

Jury Information

Records that are confidential

1. Juror questionnaires of those jurors not called: The questionnaires of jurors not called to the jury box for voir dire are not open to the public. (*Copley Press, Inc. v. Superior Court* (1991) 228 Cal.App.3d 77, 87–88); but cf. *Bellas v. Superior Court of Alameda County* (2000) 85 Cal.App.4th 636, 645, fn.6 [suggesting a contrary rule.]
2. Sealed juror records in criminal courts: After the jury reaches a verdict in a criminal case, the court’s record of personal juror identifying information (including names, addresses, and telephone numbers) must be sealed. (Code Civ. Proc., § [237\(a\)\(2\)](#).) This is often accomplished by replacing juror names with numbers. Indeed, that is how appellate court records contain the relevant information while conforming to the requirements of Code of Civil Procedure section [237](#). The defendant or his or her counsel can petition the court for access to this information to aid in developing a motion for a new trial or for any other lawful purpose. (Code Civ. Proc., § [206\(f\)](#).)

Records that may be confidential

1. Records of grand jury proceedings: These records are not open to the public unless an indictment is returned. If an indictment is returned, records of the grand jury proceeding are not open to the public until 10 days after a copy of the indictment has been delivered to the defendant or his or her attorney. (Pen. Code, § [938.1\(b\)](#); *Daily Journal Corp. v. Superior Court* (1999) 20 Cal.4th 1117, 1124–1135.) If there is a “reasonable likelihood” that release of all or part of the transcript would prejudice the accused’s right to a fair trial, a judge may seal the records. (Pen. Code, §§ [938.1](#), [929](#); and see *Rosato v. Superior Court* (1975) 51 Cal.App.3d 190.) Notwithstanding the confidential status of a record, in civil grand juries, a judge may order disclosure of certain evidentiary materials, as long as information identifying any person who provided information to the grand jury is removed. (Pen. Code, § 929.) Also, after an indictment is returned, the judge may order disclosure of nontestimonial portions of the grand jury proceedings to aid preparation of a motion to dismiss the indictment. (*People v. Superior Court (Mouchaourab)* (2000) 78 Cal.App.4th 403, 434–436.)
2. Courts’ inherent power to protect jurors: Courts may exercise their discretion to seal juror records where a “compelling interest” exists, such as protecting jurors’ safety or privacy, protecting litigants’ rights, or protecting the public from injury. (*Pantos v. City and County of San Francisco* (1984) 151 Cal.App.3d 258, 262; Code of Civ. Proc., § [237](#); see also *Townsel v. Superior Court* (1999) 20 Cal.4th 1084, 1091.) Thus any juror information that a judge orders sealed is not open to the public.

10.3.2 Sealed Records

The rules on sealed records in the trial courts are contained in rules [2.550](#) and [2.251](#) of the California Rules of Court. The content and scope of the sealing is specified in the sealing order. The sealed records rules provide that the court's order should seal only those documents and pages, or if reasonably practical, portions of those documents and pages, that contain the materials that need to be placed under seal. All other portions of each document or page must be included in the public file. (Cal. Rules of Court, rule [2.550\(e\)](#)).

Sealed records must be securely filed and kept separate from the public file in the case. (Cal. Rules of Court, rule [2.551\(f\)](#).)

There are also a specific statute and rule on sealing juvenile records. (Welf. & Inst. Code § [781](#); Cal. Rules of Court, rule [5.830](#).) These allow a former ward of the court to petition the court to order juvenile records sealed. If the petition is granted, the court must order the sealing of all records described in section 781. The order must apply in the county of the court hearing the petition and all other counties in which there are juvenile records concerning the petitioner. (Cal. Rules of Court, rule [5.830\(a\)\(4\)](#).) All records sealed must be destroyed according to section [781\(d\)](#).

10.4 Fees and Fee Waiver Guidelines for Requested Records

(The content for this section will be addressed in TCRM Version 2.0.)

10.5 Judicial Administrative Records

Judicial administrative records are not “court records,” as defined in the Government Code. Administrative records are outside the scope of this manual. For those interested in administrative records of the courts, rule [10.500](#) of the California Rules of Court sets forth requirements for public access to judicial administrative records (e.g., nondeliberative, nonadjudicative records and information relating to the administration of the courts).

11. Retention, Preservation, and Destruction of Court Records

11.1 Retention, Preservation, and Destruction Practices

This section provides guidance for the retention, preservation, and destruction of court case records only. Courts are required by law to maintain listings of destroyed court records. This information should be readily available to the Administrative Office of the Courts or the state archivist, upon request.

Records managers may systematically destroy records in accordance with statutes and rules enumerated in the “Schedule of Records Retention and Destruction and Special Case Type Characteristics,” found in section 11.4. Courts are encouraged to include a records destruction process in their comprehensive records management program. Case records may be classified and segregated in accordance with retention requirements so that like records can be easily identified for purging when retention periods have elapsed.

Court records that are being destroyed may be either (1) recycled or (2) shredded and then recycled. All confidential records must be shredded prior to recycling. Because of environmental issues and the California Integrated Waste Management Act, recycling paper from court case records is highly recommended. Paper to be recycled should be maintained in a secure area until picked up by a recycling vendor.

Government Code section [68150\(a\)](#) states that trial court records may be created, maintained, and preserved in any form or forms of communication or representation, including paper, optical, electronic, magnetic, micrographic, or photographic media or other technology. As authorized in Government Code section [68152](#), the clerk of the court may destroy court records pursuant to Government Code section [68153](#) following notice of destruction and no request and order for transfer of the records.

The five conditions for the destruction of records required by Government Code section [68152 and 68153](#) are as follows:

1. The applicable retention time has expired (Code § 68152).
2. After (there must be) final disposition of the case (defined in Code § 68151) (Code § 68152).
3. Notice of destruction (intention) has been given (Code § 68152).
4. There is no request and order for transfer of the records (Code § 68152).
5. The records are destroyed on the order of the presiding judge of the court (required by Code § 68153).

Copies of the notice of intent to destroy records and the notice of hearing when a record entity requests transfer of records to its possession include the following:

1. Notice of Intent to Destroy Superior Court Records (form [REC-001\(N\)](#))
2. Offer to Transfer Possession (form [REC-001\(N\)](#))
3. Notice of Hearing on Request for Transfer or Extension of Time for Retention of Superior Court Records (form [REC-001\(R\)](#))
4. Notice of Hearing on Request for Transfer or Extension of Time for Retention of Superior Court Records; Court Order; Release and Receipt of Superior Court Records (form [REC-002\(N\)](#))
5. Release and Receipt of Superior Court Record (form [REC-002\(R\)](#))

Once records have been destroyed or transferred, the court is required to file a notice with the Judicial Council, apprising the council of this action. The notification is made on the following form:

1. Report to the Judicial Council: Superior Court Records Destroyed, Preserved and Transferred (form [REC-003](#))

11.1.1 Court Records Sampling Program

The Judicial Council has adopted the superior court records sampling program (Cal. Rules of Court, rule [10.855](#)) to ensure the preservation of records in the trial courts. This legislatively mandated action concerns all superior court records filed before 1911 and a sample of superior court records filed after December 31, 1910.

Superior court records, as used in this context, do not include records of limited civil, small claims, misdemeanor, or infraction cases.

Sampling Technique

Three superior courts are assigned in rotation by the Judicial Council to preserve 100 percent of their court records for a calendar year. This is called a “longitudinal sample.” (Cal. Rules of Court, rule [10.855\(f\)](#).) The schedule of the comprehensive sampling program is included in the Appendix to the TCRM.

All other courts are required to preserve a “systematic sample” of 10 percent or more of each year’s court records scheduled to be destroyed. (Cal. Rules of Court, rule [10.855\(f\)](#).) If fewer than 100 cases of a filing year are scheduled to be destroyed, all of the cases must be preserved. (Cal. Rules of Court, rule [10.855\(f\)\(1\)\(c\)](#).)

Courts must also preserve a 2 percent “subjective sample” of court records scheduled to be destroyed (but not fewer than the court records for 20 cases). This “subjective sample” must include

- All cases accepted for review by the California Supreme Court;
- “Fat files” or the thickest perceived case files; and
- Cases deemed by the court to be of local, national, or international significance.

These cases must be identified by stamp or mark to distinguish them from the systematic sample. (Cal. Rules of Court, rule [10.855\(f\)\(2\)](#).)

Reporting Requirement

Under rule [10.855\(l\)](#) of the California Rules of Court, superior courts are required to provide semiannually to the Judicial Council a list by year of filing of court records destroyed, filing and location of the court records of the comprehensive and sample court records preserved, and filing and location of the court records transferred to entities under rule [10.856](#) of the California Rules of Court. The council adopted form [REC-003](#), *Report to the Judicial Council: Superior Court Records Destroyed, Preserved, and Transferred*, effective January 1, 2007, to implement the reporting requirements.

Notice Requirement

Under rule [10.856\(b\)](#) of the California Rules of Court, superior courts are required to give 30 days' written notice of intent to destroy court records open to public inspection. The notice is sent to entities maintained on the council's master list and to others who directly requested notification.

Records Management Clearinghouse

As a result of the actions outlined above, a Records Management Clearinghouse was established to receive superior court records disposition reports required under legislation and council rule; keep courts informed of their responsibilities under the records management statutes and rules; serve as a referral center for historians and researchers seeking to study court records in superior courts; and respond to questions on the standards, rules, reporting forms, and new records management legislation. The address for the Records Management Clearinghouse is

Records Management Clearinghouse
c/o Administrative Office of the Courts
Office of the General Counsel
455 Golden Gate Avenue
San Francisco, CA 94102-3688

11.2 Inactive Records Storage



By definition and design, an active filing system will lead to a continuous movement of records from active to inactive filing systems or records storage areas. Records are subject to much less activity in an inactive records storage area than in an active filing system, but records are still being added, individual records continue to be accessed periodically, and records may be moved out for destruction or transferred to another location, such as an archive.

The purpose of inactive records storage is simply to move inactive or closed case records from prime filing system space to lower-cost space where records may be more densely packed with the understanding that they are accessed with decreasing frequency as they become older. An inactive system may be expanded as the need arises. The records retention and destruction schedule is the primary tool used to manage the inventory of inactive records. It identifies records that can be destroyed and those that must be retained.

11.3 Cases Accepted for Review by the Supreme Court

Pursuant to rule [10.855](#) of the California Rules of Court, case records accepted for review by the California Supreme Court must be retained in a trial court's records sampling program. Each year, the AOC places a list of such cases on the Serranus Web site at <http://serranus.courtinfo.ca.gov/programs/courtrec/>.

It is the responsibility of every court to check the list annually and flag the cases that, as a result of Supreme Court review, must be permanently retained in the sampling program.

11.4 Schedule of Records Retention and Destruction Schedule and Special Case Type Characteristics

11.4.1 Records Retention and Destruction Schedule under Government Code Sections 68152 and 68153

Government Code sections [68152](#) and [68153](#) authorize the retention periods and destruction of case records for the case types below.

CASE TYPE	MINIMUM RETENTION PERIOD	SPECIAL CASE TYPE CHARACTERISTICS
<i>Adoption</i>	Retain permanently	Confidential pursuant to Family Code section 9200–9209 — Parties to the action or the attorney of record may view the court file. Family Code section 9200(c) states upon the request of the adoptive parents or the child a clerk of the court can issue a certificate of adoption, provided the birth parents’ names are omitted, unless a stepparent adoption.
<i>Change of Name</i>	Retain permanently	Confidential pursuant to Code of Civil Procedure section 1277(b)(1) — If petitioner is a participant in a Witness Protection Program or domestic violence address confidentiality program. The party to the action or attorney for the party is allowed to view the court file.
<i>Other Civil Actions and Proceeding, except as otherwise specified</i>	10 years	
<i>Where a party appears by a guardian ad litem</i>	10 years after termination of the court’s jurisdiction	
<i>Domestic Violence</i>	Same period as duration of the restraining or other orders and any renewals, then retain the restraining or other orders as a judgment; 60 days after expiration of the temporary protective or temporary restraining order.	
<i>Eminent Domain</i>	Retain permanently	
<i>Family law, except as otherwise specified</i>	30 years	

CASE TYPE	MINIMUM RETENTION PERIOD	SPECIAL CASE TYPE CHARACTERISTICS
<i>Harassment</i>	Same period as duration of the injunction and any renewals, then retain the injunction as a judgment; 60 days after expiration of the temporary restraining order.	
<i>Mental Health (Lanterman Developmental Disabilities Services Act and Lanterman-Petris-Short Act)</i>	30 years	
<i>Paternity (Establishment of Parentage)</i>	Retain permanently	Family Code section 7643, subd. (a) Records in Uniform Parentage Act proceedings, except the final judgment is not open to the public. Pursuant to Family Code section 7643(b) parties to the action, attorneys of record, or upon written consent as defined can inspect the court file.
<i>Petition, except as otherwise specified</i>	10 years	
<i>Real Property other than Unlawful Detainer</i>	Retain permanently if the action affects title or an interest in real property, otherwise 10 years.	
<i>Small Claims</i>	10 years	
<i>Unlawful Detainer</i>	1 year if judgment is for possession of the premises; 10 years if judgment is for money.	Confidential pursuant to Code of Civil Procedure section 1161.2(a)(1-4) —The following are allowed to view the court file: parties to the action, the attorneys for the parties, any person who provides the clerk with the names of at least one plaintiff and one defendant and the address of the premises, including the apartment number or unit, if any. A resident of the premises who provides the clerk with the name of one of the parties or the case number and shows proof of residency.
<i>Involuntarily dismissed by the court for delay in prosecution or failure to comply with state or local</i>	1 year	

CASE TYPE	MINIMUM RETENTION PERIOD	SPECIAL CASE TYPE CHARACTERISTICS
<i>rules</i>		
<i>Voluntarily dismissed by a party without entry of judgment</i>	1 year. Notation of the dismissal shall be made on the civil index of cases or on a separate dismissal index.	
<i>(1) Capital Felony (murder with special circumstances where the prosecution seeks the death penalty)</i>	Retain permanently. If the charge is disposed of by acquittal or a sentence less than death, the case shall be reclassified.	
<i>Felony, except as otherwise specified</i>	75 years	
<i>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</i>	5 years	
<i>Dismissed Felony</i>	75 years; the same as a felony under Government Code section 68152(e)(2) .	There currently is not a code section that addresses felonies that are dismissed. Reference Court Administration Reference Manual (CARM) 2005 Edition Section 14.80 Records Management. FAQ 4.0 http://serranus.courtinfo.ca.gov/reference/carm/carm_manual.pdf
<i>Felony Reduced to Misdemeanor</i>	Retain as per applicable misdemeanor	There currently is not a code section that addresses felonies that are reduced to misdemeanors. Reference Court Administration Reference Manual (CARM) 2005 Edition Section 14.80 Records Management. FAQ 4.0 Felony Cases.

CASE TYPE	MINIMUM RETENTION PERIOD	SPECIAL CASE TYPE CHARACTERISTICS
		http://serranus.courtinfo.ca.gov/reference/carm/carm_manual.pdf
<i>Misdemeanor, except as otherwise specified</i>	5 years	
<i>Misdemeanor Alleging a Violation of the Vehicle Code, except as otherwise specified</i>	2 years	
<i>Misdemeanor Alleging a Violation of Section 23103, 23152, or 23153 of the Vehicle Code</i>	10 years	
<i>Misdemeanor Alleging a Violation of Section 14601, 14601.1, 20002, 23104, or 23109 of the Vehicle Code</i>	5 years	
<i>Specific Marijuana Offenses (in accordance with the procedure set forth in section 11361.5 of the Health and Safety Code): Infractions under section 11357(b) of the Health and Safety Code; Misdemeanors under subdivision (c), (d), or (e) of section 11357 of the Health and Safety Code; or Misdemeanors under section 11360(b) of the Health and Safety Code {ED: Single line spacing for this block of text.}</i>	Records shall be destroyed 2 years from the date of conviction, or from the date of arrest if no conviction, except with respect to a violation of section 11357(e) the records shall be retained until the offender attains the age of 18 years at which time the records shall be destroyed as provided in section 11361.5 of the Health and Safety Code.	The requirements of section 11361.5 do <u>not</u> apply to the destruction of records of a conviction that remains subject to review on appeal; to a conviction that is the basis of (1) a term of imprisonment that has not been fully served, (2) a fine that has not been wholly paid, or (3) periods or conditions of parole or probation that have not been satisfactorily completed; or the destruction of records of an arrest while the underlying charges remain outstanding. (<i>Younger v. Superior Court</i> (1978) 21 Cal.3d 102, 111–114.)
<i>Misdemeanor, infraction, or</i>	3 years	

CASE TYPE	MINIMUM RETENTION PERIOD	SPECIAL CASE TYPE CHARACTERISTICS
<i>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</i>		
<i>Misdemeanor action resulting in a requirement that the defendant register as a sex offender pursuant to Section 290 of the Penal Code</i>	75 years. This paragraph shall apply to records relating to a person convicted on or after September 20, 2006.	
<i>Infraction, except as otherwise specified</i>	3 years	
<i>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</i>	2 years	
<i>Habeas Corpus</i>	Same period as period for retention of the records in the underlying case category.	
<i>Dependent (Section 300 of the Welfare and Institutions Code)</i>	Upon reaching age 28 or on written request shall be released to the juvenile 5 years after jurisdiction over the person has terminated under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records	Confidential pursuant to California Rules of Court, rule 5.552 , and Welfare and Institution Code section 827 (a)(1)(A -P) — The parents or guardian of the minor, the minor, attorneys to the action, child protective agencies, social service agencies as defined, local child support agencies as defined, school

CASE TYPE	MINIMUM RETENTION PERIOD	SPECIAL CASE TYPE CHARACTERISTICS
	shall be destroyed upon court order 5 years after the records have been sealed pursuant to subdivision (c) of Section 389 of the Welfare and Institutions Code.	superintendent as defined, authorized legal staff or special investigators as defined, are allowed to view the court file. Refer to Welfare & Institution Code, section 827 , for details regarding access to these records.
<i>Ward (Section 601 of the Welfare and Institutions Code)</i>	Upon reaching age 21 or on written request shall be released to the juvenile 5 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 5 years after the records have been sealed under subdivision (d) of Section 781 of the Welfare and Institutions Code.	Confidential pursuant to California Rules of Court, rule 5.552 , and Welfare and Institution Code, section 827 (a)(1)(A -P) — The parents or guardian of the minor, the minor, attorneys to the action, child protective agencies, social service agencies as defined, local child support agencies as defined, school superintendent as defined, authorized legal staff or special investigators as defined, are allowed to view the court file. Refer to Welfare and Institution Code, section 827 , for details regarding access to these records.
<i>Ward (Section 602 of the Welfare and Institutions Code)</i>	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 records reaches the age of 38 under subdivision (d) of Section 781 of the Welfare and Institutions Code.	Confidential pursuant to California Rules of Court, rule 5.552 , and Welfare and Institution Code, section 827 (a)(1)(A -P) — The parents or guardian of the minor, the minor, attorneys to the action, child protective agencies, social service agencies as defined, local child support agencies as defined, school superintendent as defined, authorized legal staff or special investigators as defined, are allowed to view the court file. Refer to Welfare and Institution Code, section 827 , for details regarding access to these records.
<i>Traffic and some nontraffic misdemeanors and infractions (Section 601 of the Welfare and Institutions Code)</i>	Upon reaching age 21 or 5 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.	
<i>Marijuana misdemeanor under subdivision (e) of Section 11357 of the Health and Safety Code in</i>	Upon reaching age 18 the records shall be destroyed.	

CASE TYPE	MINIMUM RETENTION PERIOD	SPECIAL CASE TYPE CHARACTERISTICS
<i>accordance with procedures specified in subdivision (a) of Section 11361.5 of the Health and Safety Code</i>		
<i>Conservatorship</i>	10 years after decree of termination	
<i>Guardianship</i>	10 years after the age of 18	
<i>Probate, including probated wills, except as otherwise specified</i>	Retain permanently	
<i>Court records of the appellate division of the superior court</i>	5 years	
<i>Applications in Forma Pauperis</i>	Any time after the disposition of the underlying case.	
<i>Arrest Warrant</i>	Same period as period for retention of the records in the underlying case category.	Penal Code section 168 provides punishment for willful disclosure by the district attorney, clerk, judge, or peace officer prior to execution of warrant.
<i>Bench Warrant</i>	Same period as period for retention of the records in the underlying case category.	
<i>Bond</i>	3 years after exoneration and release.	
<i>(5) Coroner's Inquest Report</i>	Same period as period for retention of the records in the underlying case category; if no case, then permanent.	
<i>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</i>	3 years	
<i>Court Reporter Notes</i>	10 years after the notes have been taken in	

CASE TYPE	MINIMUM RETENTION PERIOD	SPECIAL CASE TYPE CHARACTERISTICS
	<p>criminal and juvenile proceedings and 5 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.</p>	
<i>Electronic recordings made as the official record of the oral proceedings under the California Rules of Court</i>	Any time after final disposition of the case in infraction and misdemeanor proceedings, 10 years in all other criminal proceedings, and 5 years in all other proceedings.	
<i>Electronic recordings not made as the official record of the oral proceedings under the California Rules of Court</i>	Any time either before or after final disposition of the case.	
<i>Index, except as otherwise specified</i>	Retain permanently	
<i>Index for cases alleging traffic violations</i>	Same period as period for retention of the records in the underlying case category.	
<i>Judgments within the jurisdiction of the superior court other than in a limited civil case, misdemeanor case, or infraction case</i>	Retain permanently	
<i>Judgments in misdemeanor cases, infraction cases, and limited civil cases</i>	Same period as period for retention of the records in the underlying case category.	Government Code section 68152(k)(2) —Retention of the court record to be extended: Upon application and order for renewal of the judgment to the extended time for enforcing the judgment.

CASE TYPE	MINIMUM RETENTION PERIOD	SPECIAL CASE TYPE CHARACTERISTICS
<i>Minutes</i>	Same period as period for retention of the records in the underlying case category.	
<i>Naturalization index</i>	Retain permanently	
<i>Ninety-day evaluation (under Section 1203.03 of the Penal Code)</i>	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.	
<i>Register of actions or docket</i>	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.	
<i>Search Warrant</i>	10 years, except search warrants issued in connection with a capital felony case defined in paragraph (7), which shall be retained permanently.	Confidential pursuant to Penal Code section 1524 (d)(1) — Information can be only divulged upon direct inquiry by the court. Penal Code section 168 provides punishment for willful disclosure by the district attorney, clerk, judge, or peace officer prior to execution of warrant.

11.4.2 Records Retention and Destruction Schedule for Other Case Types

This section includes case types that are not contained in Government Code section 68152. Accordingly, there is no statutory or rule guidance on the retention and destruction of these case types. Below are recommended retention periods, derived from retention periods of similar or closely related case types that are described in Government Code section 68152.

CASE TYPE	RECOMMENDED RETENTION PERIOD	SPECIAL CASE TYPE CHARACTERISTICS
<i>Disclosure of juvenile records (Sections 827 and 828 of the Welfare and Institutions Code)</i>	Same retention period as the disclosed documents. See Government Code, section 68152(g) , for juvenile record retention times.	Confidential pursuant to California Rules of Court, rule 5.552(c-f) , and Welfare and Institutions Code, sections 827 and 828 as defined—Upon a showing of good cause and court order may allow the petitioning party all or limited dissemination of the juvenile court file or information retained by law enforcement agency.
<i>Mental health petition (Section 5275 of the Welfare and Institutions Code)</i>	30 years	Confidential pursuant to Welfare and Institutions Code section 5328.15 as defined; in summary the Judicial Officer and the parties to the action are allowed to view the court file.
<i>Riese Hearings (Section 5332 of the Welfare and Institutions Code)</i>	30 years	Confidential pursuant to Welfare and Institutions Code section 5328.15 as defined; in summary the Judicial Officer and the parties to the action are allowed to view the court file.
<i>Terminate Parental Rights</i>	30 years	Confidential pursuant to Family Code section 7805 —The child who is subject of the proceeding, the parents or guardian of the child, attorneys for the parties, and any other person designated by the judge are allowed to view the court file.
<i>Subpoenaed Records (EC 1560(d))</i>	Unless admitted as evidence or required as part of the record: (1) Original subpoenaed records should be returned to the custodian of records at the conclusion of trial/hearing; or (2) copies of subpoenaed records should be destroyed at the conclusion of trial/hearing.	

11.4.3 Records Retention and Destruction Schedule for Prefiled and Juror Records

This section includes case types that are not contained in Government Code section 68152. Accordingly, there is no statutory or rule guidance on the retention and destruction of these case types.

CASE TYPE	RECOMMENDED RETENTION PERIOD	SPECIAL CASE TYPE CHARACTERISTICS
<i>Grand Jury Indictments under Penal Code sections 889 and 940</i>	Same period as period for retention of the records in the underlying case category.	Confidential pursuant to Penal Code section 939 as defined—See persons to be permitted during sessions. Penal Code section 939.1 as defined—Public sessions on request under court order.
<i>Jury Questionnaire under Code of Civil Procedure 205(c-d)</i>	Same period as period for retention of the records in the underlying case category.	Jury questionnaires are public information.
<i>Probable Cause Declaration under Penal Code section 817</i>	Same period as period for retention of the records in the underlying case category.	Penal Code section 168 provides punishment for willful disclosure by the district attorney, clerk, judge, or peace officer prior to execution of warrant.
<i>Probation Reports under California Rules of Court, rule 4.411, et seq. and Penal Code section 1203, et seq.</i>	Same period as period for retention of the records in the underlying case category.	Penal Code section 1203.05 as defined, public from date of judgment or probation granted for 60 days; by district attorney or defendant at any time; or by court order after 60 days.
<i>Qualification of Jurors under Code of Civil Procedure sections 203 and 198</i>	Same period as period for retention of the records in the underlying case category.	Code of Civil Procedure section 237 as defined names of qualified jurors are public information upon request. Code of Civil Procedure section 237 (2) as defined, juror personal indentifying information is sealed.
<i>Wire Taps under Penal Code section 629.50</i>	Mandatory 10 years minimum.	Confidential pursuant to Penal Code section 629.66 —Applications and orders granted shall be sealed by the judge and shall be disclosed only upon a showing of good cause before a judge.

Appendices

APPENDIX 1—COURT RECORDS DESIGNATED CONFIDENTIAL BY STATUTE OR RULE

GENERAL			
1	Information that must be excluded from court calendars, indexes, and registers of actions	Cal. Rules of Court, rule 2.507(c)	“The following information must be excluded from a court’s electronic calendar, index, and register of actions: (1) Social security number; (2) Any financial information; (3) Arrest warrant information; (4) Search warrant information; (5) Victim information; (6) Witness information; (7) Ethnicity; (8) Age; (9) Gender; (10) Government-issued identification card numbers (i.e., military); (11) Driver’s license number; and (12) Date of birth.”
2	Subpoenaed Records (EC 1560(d))	Evidence Code Section 1560 (d) .	Unless the parties to the proceeding otherwise agree, or unless the sealed envelope or wrapper is returned to a witness who is to appear personally, the copy of the records shall remain sealed and shall be opened only at the time of trial, deposition, or upon direction of the judge.
CIVIL LAW			
1	Request for accommodations by persons with disabilities	Cal. Rules of Court, rule 1.100(c)(4)	“The court must keep confidential all information of the applicant concerning the request for accommodation”; this includes the identity of the applicant, all medical information, and all communications from the applicant.
2	Application to proceed <i>in forma pauperis</i> (aka application for waiver of fees and costs)	Cal. Rules of Court, rule 3.54	Access to the application and to the information in the application is limited to court and authorized persons only.
3	Documents filed under seal (per court order)	Cal. Rules of Court, rule 2.550	A sealed record is a record that by court order is not open to inspection by the public.
4	Documents that are the subject of a motion to seal	Cal. Rules of Court, rule 2.551(b)	A party requesting that a record be filed under seal must lodge it with the court. Pending the court’s ruling, the lodged record will be conditionally under seal. In addition, unredacted memoranda and other documents filed in support of and opposition to the motion must be lodged, conditionally under seal, with redacted versions filed publicly.
5	Confidential documents that may be the subject of a motion to seal	Cal. Rules of Court, rule 2.551(b)	A party that intends to file documents that are subject to a confidentiality agreement or protective order, but does not intend to request that they be filed under seal, must lodge the records, as well as any pleadings or other documents that disclose the contents of the records, with the court. Redacted versions of those documents are filed publicly. Unredacted records are lodged, with

			notice to parties that the records will be placed in the court file unless a motion to seal is filed and granted. The documents are conditionally under seal for 10 days. If a party moves to seal the documents within that period, or longer if extended by the court, the documents remain conditionally under seal pending the court's ruling on the motion.
6	Records examined by the court in confidence during a confidential <i>in-camera</i> proceeding in which a party is excluded	Cal. Rules of Court, rule 2.585	Such records must be filed under seal and must not be disclosed without court order.
7	Records in unlawful detainer actions	Code Civ. Proc., § 1161.2 (a)	For 60 days after the complaint has been filed, access is limited to specific enumerated persons set forth in the statute, including parties and residents of the property. If the defendant prevails in the action within 60 days of the filing of the complaint, access is permanently limited to those specific enumerated persons. An exception excludes records of mobilehome park tenancies from this code section; those records are not confidential. In addition, effective January 1, 2011, access to court records is permanently limited to those specified enumerated persons in unlawful detainer cases involving residential property based on section 1161a (holding over after sale under execution, mortgage, or trust deed [foreclosures]) as indicated in the caption of the complaint, unless judgment has been entered, after a trial, for the plaintiff and against all defendants.
8	Records of actions brought under False Claims Act (aka <i>qui tam</i> actions)	Gov't. Code, § 12652(c)(2) ; Cal. Rules of Court, rule 2.570	A complaint that is filed by a private person is automatically filed under seal (no sealing order required) for 60 days, longer if extended by the court. During that period, all records in the action are filed under seal and are confidential until the seal is lifted. Access to sealed records is limited to specifically enumerated parties.
9	All information regarding complaints about the conduct of mediators in court-connected mediation programs	Cal. Rules of Court, rule 3.867	All communications, inquiries, complaints, investigations, procedures, deliberations, and decisions about the conduct of a mediator under rule 3.865 must occur in private and must be kept confidential. The presiding judge or a person designated by the presiding judge for this purpose may, at his or her discretion, authorize the disclosure of information or records concerning rule 3.865 complaint procedures that do not reveal any mediation communications.
10	Confidential name change because of domestic violence, stalking, or sexual assault	Code Civ. Proc., § 1277 ; Gov't Code § 6205 et seq.	The Secretary of State shall keep confidential name changes because of domestic violence, stalking, or sexual assault. Petitions for change of name because of domestic violence, stalking, or sexual assault shall, in lieu of reciting the proposed name, state that the proposed name is confidential and will be on file with the Secretary of State.
11	All certificates of corroborative fact filed in a civil action based on childhood sexual abuse	Code Civ. Proc., § 340.1(p)	Confidential from the public <i>and all parties</i> (except the plaintiff).
12	Social security numbers (SSNs)	Cal. Rules of Court, rule 2.507(c)(1) ; see also Gov't Code, § 68107	Rule of court 2.507(c) requires that SSNs, along with other personal data, be excluded from any electronic court calendar, index, or register of action. (See the criminal law section below for list of all categories of data to be excluded.) Section 68107 of the Government Code specifically addresses court collection efforts in criminal cases but does state that an SSN obtained for that purpose "is not a public record and shall not be disclosed except for collection purposes."

13	Records in an action in which prejudgment attachment is sought	Code Civ. Proc., § 482.050 ; Cal. Rules of Court, rule 2.580	Upon request by the plaintiff at the time the complaint is filed, the clerk of the court shall not make the records in the action or the fact of the filing of the action available to the public for as long as 30 days, or sooner upon the filing of the return of service of the notice of hearing and any temporary protective order or writ of attachment. Notwithstanding the above, the clerk shall make the entire file available to any named party or his or her attorney.
CRIMINAL			
1	Sealed juror identification information	Pen. Code, § 95.2	This section makes it a misdemeanor for any person, without court authorization and juror consent, to intentionally provide a defendant juror identification information sealed by the court under Code of Civil Procedure § 237 , where that information is in turn used to commit certain crimes.
2	Criminal juror identifying information	Code Civ. Proc., § 237	Upon the recording of a jury's verdict in a criminal jury proceeding, the court's record of personal juror identifying information of trial jurors shall be sealed until further order of the court. Please see criminal section (below) for further details.
3	Sex offense victim address information	Pen. Code, § 293	Allows victims of sex offenses to request that their names remain private and prohibits disclosure of their address information (with enumerated exceptions).
4	All records containing the identity of an alleged sex offense victim	Pen. Code, § 293.5	The court, at the request of the alleged victim, may order the identity of the alleged victim in all records and during all proceedings to be either Jane Doe or John Doe, if the court finds that such an order is reasonably necessary to protect the privacy of the person and will not unduly prejudice the prosecution or the defense.
5	Obscene matter	Pen. Code, § 312	When a conviction becomes final, the court may order any obscene matter or advertisement in its possession or under its control to be destroyed.
6	Two specific records involving victims of identity theft: (1) The police report generated on behalf of the victim under Pen. Code, § 530.6; and (2) The victim's written request for records regarding the unauthorized use of the victim's identity made upon the person or entity in possession of the records	Pen. Code, § 530.8(d)(1)	The aforementioned documents "shall be kept confidential by the court" pending the victim's petition to receive information pertaining to the unauthorized use of his or her identity.
7	Applications and orders regarding wiretaps	Pen. Code, § 629.66	Applications and orders for wiretaps "shall be sealed by the judge" and "shall be disclosed only upon a showing of good cause before a judge."
8	Peace or custodial officer personnel records	Pen. Code, § 832.7	Peace officer and/or custodial officer personnel records, and records maintained by any state or local agency, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Evidence Code

			sections 1043 and 1046.
9	Records of juvenile arrests for misdemeanors	Pen. Code, § 851.7	Any person previously arrested for a misdemeanor while a minor may petition the court for an order sealing the records in the case, including any records of arrest and detention.
10	Records of arrest	Pen. Code, § 851.8	This section sets forth various provisions for sealing and destroying the arrest records of persons subsequently deemed “factually innocent.”
11	Criminal case records following acquittal	Pen. Code, § 851.85	A judge presiding at a trial resulting in an acquittal may order that the records in the case be sealed, including any record of arrest or detention, whenever it appears to the judge that the defendant was “factually innocent.”
12	Arrest records and related court files and records, including court indexes and registers of actions	Pen. Code, § 851.90	Whenever a case is dismissed following a defendant’s successful completion of drug diversion under Penal Code section 1000 et seq., the court may, in the interest of justice, seal the records of the arresting agency and related court files and records, including any record of arrest or detention. If the order is made, the clerk of the court shall thereafter not allow access to any records concerning the case, including the court file, index, register of actions, or other similar records.
13	Grand jury reports containing unprivileged materials and findings	Pen. Code, § 929	This section sets forth the circumstances under which a grand jury may make available to the public certain information relied on for its “final report” and provides that a judge may require redaction or “masking” of any part of the evidentiary material, findings, or other information to be released, including “the identity of witnesses and any testimony or materials of a defamatory or libelous nature.”
14	Personal information regarding witnesses or victims	Pen. Code, § 964	The court and district attorney shall establish a mutually agreeable procedure to protect the confidential personal information of any witness or victim contained in police reports submitted to a court in support of a complaint, indictment, information, search warrant and/or arrest warrant.
15	Financial statements and/or other financial information of criminal defendants	Pen. Code, § 987(c)	To determine if a defendant qualifies for a public defender, the court may require the defendant to file a financial statement with the court under penalty of perjury, which must remain “confidential and privileged” unless certain, enumerated exceptions apply.
16	Applications by indigent defendants for funds for investigators and/or experts	Pen. Code, § 987.9	“The fact that an application has been made shall be confidential and the contents of the application shall be confidential.” (See subd. (d) for exception(s).)
17	Specified victim statements, including statements in lieu of personal appearance	Pen. Code, § 1191.15	With certain, enumerated exceptions, “[w]henever a written, audio, or video statement or statement stored on a CD ROM, DVD, or other medium is filed with the court, it shall remain sealed until the time set for imposition of judgment and sentence ...”
18	Results of mandatory AIDS testing	Pen. Code, § 1202.6(f)	With certain, specified exceptions, the results of mandatory AIDS testing for defendants convicted of violating Penal Code section 647(b) “shall be confidential.”
19	Diagnostic reports from the Director of the Department of Corrections	Pen. Code, § 1203.03	The reports from the Director of the Department of Corrections concerning defendants considered for “treatment services as can be provided at a diagnostic facility” shall “be served only upon the defendant or his counsel, the probation officer, and the prosecuting attorney by the court receiving such report ... [and] ... the information contained therein shall not be disclosed to anyone else without the consent of the defendant. After disposition of the case, all copies of the report, except the one delivered to the defendant or his counsel, shall be filed in a sealed file ...”
20	Probation reports filed with	Pen. Code, § 1203.05	This section sets forth limitations on who may inspect probation reports filed with the court, and

	the court		when those reports may be inspected.
21	Records of misdemeanor convictions of minors	Pen. Code, § 1203.45	With a few stated exceptions and/or limitations, this section allows for the sealing of “the record of conviction and other official records in the case, including records of arrests resulting in the criminal proceeding and records relating to other offenses charged in the accusatory pleading, whether defendant was acquitted or charges were dismissed.”
22	Three specific sets of records: (1) Any written report of any law enforcement officer or witness to any offense; (2) Any information reflecting the arrest or conviction record of a defendant; and (3) Any affidavit or representation of any kind, verbal or written	Pen. Code, § 1204.5	With certain, specified exceptions, this section prohibits a judge from reading or considering the above records without the defendant’s consent given in open court.
23	State summary criminal history information (i.e., rap sheets.)	Pen. Code, § 11142	Makes it a misdemeanor for a person authorized to receive state criminal history information to furnish it to an unauthorized person.
24	State summary criminal history information (i.e., rap sheets.)	Pen. Code, § 11143	Generally makes it a misdemeanor for any person to improperly buy, receive, or possess criminal history information.
25	State summary criminal history information (i.e., rap sheets.)	Pen. Code, § 11144	Prescribes when information from criminal histories may be disseminated without violation.
26	Local summary criminal history information (i.e., rap sheets.)	Pen. Code, § 13300	Prescribes who may have access to local summary criminal history information.
27	Local summary criminal history information (i.e., rap sheets.)	Pen. Code, § 13302	Makes it a misdemeanor for a criminal justice agency employee to improperly furnish a person’s criminal history to an unauthorized recipient.
28	Local summary criminal history information (i.e., rap sheets.)	Pen. Code, § 13303	Makes it a misdemeanor for an authorized recipient of criminal history information to improperly furnish it to an unauthorized recipient.
29	Local summary criminal history information (i.e., rap sheets.)	Pen. Code, § 13304	Generally makes it a misdemeanor for any person to improperly buy, receive, or possess criminal history information.
30	Local summary criminal history information (i.e., rap	Pen. Code, § 13305	Prescribes when information from criminal histories may be disseminated without violation.

	sheets.)		
31	Court records and documents relating to search warrants	Pen. Code, § 1534	“The documents and records of the court relating to the warrant need not be open to the public until the execution and return of the warrant or the expiration of the 10-day period after issuance. Thereafter, if the warrant has been executed, the documents and records shall be open to the public as a judicial record.”
32	Peace and custodial officer personnel records	Evid. Code, §§ 1043 , 1045–1047	In conjunction with Penal Code section 832.5 , these sections restrict how the court may review and disclose peace officer personnel records.
33	Exhibits	Cal. Rules of Court, rule 2.400(c)(1)	“The clerk must not release any exhibit except on order of the court.”
34	Reporters’ transcripts of <i>Marsden</i> hearings	Cal. Rules of Court, rule 8.328	“The reporter’s transcript of any hearing held under <i>People v. Marsden</i> (1970) 2 Cal.3d 118 must be kept confidential.”
35	Records on appeal	Cal. Rules of Court, rule 8.610	This rule provides for confidentiality of certain records on appeal.
36	Juvenile court records	Welf. & Inst. Code, § 781	This section sets forth the procedure for—and consequences of—petitions for sealing juvenile records.
PROBATE			
1	Confidential Guardian Screening Form (form GC-212)	Cal. Rules of Court, rule 7.1001(c)	This mandatory Judicial Council form regarding the proposed guardian is confidential. It is used by the court and by persons or agencies designated by the court to assist in determining whether a proposed guardian should be appointed. (Cal. Rules of Court, rule 7.1001(c))
2	Confidential Supplemental Information (form GC-312)	Prob. Code, § 1821(a)	This form regarding the proposed conservatee is confidential. It shall be separate and distinct from the form for the petition. The form shall be made available only to parties, persons given notice of the petition who have requested this supplemental information, or who have appeared in the proceedings, their attorneys, and the court. The court has the discretion to release the information to others if it would serve the interest of the conservatee. The clerk shall make provisions for limiting the disclosure of the report exclusively to persons entitled thereto. (Probate Code, § 1821(a))
3	Confidential Conservator Screening Form (form GC-314)	Cal. Rules of Court, rule 7.1050(c)	This mandatory Judicial Council form is confidential. (Cal. Rules of Court, rule 7.1050(c)).
4	Reports regarding proposed guardianship or conservators	Prob. Code, §§ 1513 , 1826	An investigative report created pursuant to Probate Code section 1513 concerning a proposed guardianship is confidential and available only to parties served in the action or their attorneys (generally, parents, legal custodian of child). An investigative report created pursuant to Probate Code section 1826 regarding the proposed conservatee is confidential and available only to those persons specified by statute. Under the statute, the reports on proposed conservatees shall be made available only to parties, persons given notice of the petition who have requested the report, or who have appeared in the proceedings, their attorneys, and the court. The court has the discretion to release the information to others if it would serve the interest of the conservatee. The clerk shall make provisions for limiting the disclosure of the reports on guardianships and conservatorships exclusively to persons entitled thereto. (Prob. Code, §§ 1513, subd. (d) & 1826, subd. (n))

5	Investigator's review reports in conservatorships	Prob. Code, § 1851	These reports are confidential. The information in the reports may be made available only to parties, persons identified in section 1851(b) , persons given notice who have requested the report or appeared in the proceeding, their attorneys, and the court. The court has the discretion to release the information to others if it would serve the interests of the conservatee. The clerk shall make provisions for limiting the disclosure of the report exclusively to persons entitled thereto. (Prob. Code, §§ 1851, subd. (b) and (e) .) Subdivision (b) provides for special restricted treatment of attachments containing medical information and confidential criminal information from CLETS. Although the attachments are not mentioned in (e), it is recommended, to be consistent with (b), that they be treated as confidential except to the conservator, conservatee, and their attorneys.
6	Certification of counsel of their qualifications (form GC-010) and certification of completion of continuing education (form GC-011)	Cal. Rules of Court, rule 7.1101	The forms state that they are "confidential for court use only." They are governed by rule 7.1101 , which states only that the certifications must be submitted to the court but not lodged or filed in a case file.
FAMILY			
1	Family conciliation court records	Fam. Code, § 1818	Records and proceedings in Family Conciliation Courts are confidential.
2	Psychological evaluations of children and recommendations regarding custody and visitation; confidentiality; exceptions	Fam. Code, § 3025.5	Any psychological evaluations of children or recommendations regarding custody and visitation proceedings that are submitted to the court shall remain confidential and may be disclosed only to certain people (parties, attorneys, law enforcement officers, judicial officers, family law facilitator).
3	Controlled substances or alcohol abuse testing of persons seeking custody or visitation; grounds for testing; confidentiality of results; penalties for unauthorized disclosure	Fam. Code, § 3041.5	Test results for controlled substances or alcohol abuse of persons seeking custody or visitation shall remain confidential and maintained in a sealed record in the court file. These results may not be released to anyone except the court, the parties, their attorneys, the Judicial Council, and any other person whom the court expressly grants access by written order made with prior notice to all parties.
4	Child custody evaluations; reports{ ED: Should this be plural "reports"? }; confidentiality and use	Fam. Code, § 3111	Child custody evaluation reports are available only to the court, the parties, and their attorneys.
5	Confidentiality of mediation proceedings	Fam. Code, § 3177	Mediation proceedings shall be held in private and shall be confidential. All communications, verbal or written, from the parties to the mediator made in the proceeding are official information within the meaning of Evidence Code § 1040 .

6	Recommendations to court as to custody or visitation, investigation, restraining orders, and minor's counsel	Fam. Code, §§ 3183 and 3184	Mediator may submit recommendations to the court as to the custody of or visitation with the child except as is provided in Family Code section 3188 .
7	Confidential mediation program	Fam. Code, § 3188 (not operative pursuant to (b) because of lack of budget allocation)	In a court that adopts a confidential mediation program, the mediator may not make a recommendation as to custody or visitation to anyone other than the disputing parties, exceptions noted in statute.
8	State and federal income tax returns; submission to court; examination and discovery	Fam. Code, § 3552	Tax returns are confidential court records.
9	Criminal history search; prior restraining orders	Fam. Code, § 6306	Information found in a search for person to restrained's prior criminal history must be kept confidential in certain circumstances (see subd. (a)); the information may be reviewed or disclosed to certain persons involved in the case.
10	Hearing or trial in closed court; papers and records, inspection	Fam. Code, § 7643	With the exception of the final judgment, records in Uniform Parentage Act proceedings are closed to the public.
11	Inspection of petitions, reports, and court records and briefs	Fam. Code, § 7805	<p>A petition to terminate parental rights or a report of the probation officer or county social services department may be inspected only by the following persons:</p> <ol style="list-style-type: none"> (1) Court personnel. (2) The child who is the subject of the proceeding. (3) The parents or guardian of the child. (4) The attorneys for the parties. (5) Any other person designated by the judge. <p>On appeal to the court of appeal or the Supreme Court, the court record and briefs filed by the parties may be inspected only by the following persons:</p> <ol style="list-style-type: none"> (1) Court personnel. (2) A party to the proceeding. (3) The attorneys for the parties. (4) Any other person designated by the presiding judge of the court before which the matter is pending. <p>The court and/or probation officer may provide information in a termination of parental rights case, if it is believed that the welfare of the child will be promoted, to any of the following:</p> <ol style="list-style-type: none"> (1) The State Department of Social Services. (2) A county welfare department. (3) A public welfare agency.

			(4) A private welfare agency licensed by the State Department of Social Services.
12	Privacy rights; confidentiality of records	Fam. Code, § 17212	All child and spousal support enforcement records are confidential, and shall not be released for any purpose not directly connected with the administration of the child and spousal support enforcement program. Information regarding the location of one party or the child shall not be disclosed to another party, or to the attorney of any other party, if a protective order has been issued by a court or administrative agency with respect to the party, a good cause claim under Section 11477.04 of the Welfare and Institutions Code has been approved or is pending, or the public agency responsible for establishing paternity or enforcing support has reason to believe that the release of the information may result in physical or emotional harm to the party or the child. The information shall be omitted from any pleading or document to be submitted to the court. A proof of service filed by the local child support agency shall not disclose the address where service of process was accomplished. Instead, the local child support agency shall keep the address in its own records. Authorized disclosures are described in the statute.
13	Inspection of documents; authorization; fee; deletion of identification of birth parents; certificate of adoption	Fam. Code, § 9200	Documents relating to adoption proceedings are confidential and may be seen only by the parties, their attorneys, and the child welfare agency. The name and identifying information regarding the child's birth parents shall not be disclosed to anyone receiving the documents unless the adoption is by a stepparent or second-parent.
14	Confidentiality	Cal. Rules of Court, rule 3.854	This covers guidelines for mediators with respect to confidentiality.
15	Court-connected child custody mediation	Cal. Rules of Court, rule 5.210(d)(1)(F) & (G), (h)(3)	Mediators must protect the confidentiality of the parties and the child by not releasing information about the case except as is authorized.
16	Domestic violence protocol for Family Court Services	Cal. Rules of Court, rule 5.215(e), (f)(2), (g)(3)	Family Court Services (FCS) staff must make reasonable efforts to keep contact/identifying information confidential on FCS documents when dealing with domestic violence cases.
JUVENILE			
1	Information available for juvenile court proceedings regarding best interest of child; confidentiality	Welf. & Inst. Code, § 204	Any information provided to the court under this section to make a determination regarding the best interest of the child may be released to authorized persons; however, if the information is confidential, it shall remain confidential and not be released to others except as is necessary.
2	Admission of public and persons having interest in case; confidentiality of name; disclosure of court documents	Welf. & Inst. Code, § 676	Unless requested by the minor, the public shall not be admitted to a juvenile court hearing; the name of a minor found who {ED: Addition OK?} has committed one of the juvenile offenses listed in Welfare and Institutions Code section 676 shall not be confidential unless the court, for good cause, so orders; when a petition is sustained for any of these offenses, the charging petition, the minutes of the proceeding, and the orders of adjudication and disposition of the court contained in the court file may be available for public inspection; the probation officer or any

			party may petition the juvenile court to prohibit disclosure to the public of any file or record.
3	Juvenile court record	Welf. & Inst. Code, § 825	The order and findings of the superior court in each case under the provisions of this chapter shall be entered in a suitable book or other form of written record that shall be kept for that purpose and known as the “juvenile court record.”
4	Release or destruction of court record; reproduction	Welf. & Inst. Code, § 826 (et seq.)	The juvenile court records include all records and papers, any minute book entries, dockets, and judgment dockets. These records may be destroyed after five years from the date on which jurisdiction of the juvenile court is terminated; they must be destroyed by order of the court under various circumstances, outlined below; records may also be released to the juvenile who is the subject of the proceeding.
5	Juvenile case file inspection; confidentiality; release; probation reports; destruction of records; liability	Welf. & Inst. Code, § 827	Only certain persons may inspect juvenile case files; special rules apply when a deceased child is involved; further description of protocol for access/release of information in the files.
6	Computerized database system; authorized access; security procedures	Welf. & Inst. Code, § 827.1	A city/county may establish a computerized database system for intercounty/-city exchange of information regarding minors under the jurisdiction of the juvenile court and may be accessed by authorized personnel under certain circumstances; this system must have security procedures to block unauthorized personnel from accessing the data.
7	Commission of felony; notice; disclosure of information	Welf. & Inst. Code, § 827.2	Information received regarding a juvenile’s commission of a felony shall be held in confidence, with limited exceptions.
8	Commission of serious felony; minor in custody; hearing commenced; disclosure of name	Welf. & Inst. Code, § 827.5	Notwithstanding any other provision of law except sections 389 and 781 of Welfare and Institutions Code and section 1203.45 of the Penal Code, a law enforcement agency may disclose the name of any minor 14 years of age or older taken into custody for the commission of any serious felony, as defined in subdivision (c) of section 1192.7 of the Penal Code, and the offenses allegedly committed, upon the request of interested persons, following the minor’s arrest for that offense.
9	Commission for violent offense; release of information	Welf. & Inst. Code, § 827.6	A law enforcement agency may release the name, description, and the alleged offense of any minor alleged to have committed a violent offense, as defined in subdivision (c) of section 667.5 of the Penal Code, and against whom an arrest warrant is outstanding, if the release of this information would assist in apprehending the minor or protecting public safety. Neither the agency nor the city, county, or city and county in which the agency is located, shall be liable for civil damages resulting from release of this information.
10	Disclosure of juvenile police records	Welf. & Inst. Code, § 827.9	Records or information gathered by law enforcement agencies relating to the taking of a minor into custody, temporary custody, or detention (juvenile police records) should be confidential. See subdivision (b) of the Welfare and Institutions Code for list of persons or entities that law enforcement may release a copy of a juvenile police record to.
11	Disclosure of information gathered by law enforcement agency; release of descriptive	Welf. & Inst. Code, § 828	With exceptions, information gathered by a law enforcement agency relating to taking the minor into custody can be disclosed to another law enforcement agency; the law enforcement agency may release the name of, and any descriptive information about, the minor.

	information about minor escapees		
12	Confidentiality of records	Cal Rules of Court, rule 5.552	In conjunction with Welfare & Institutions Code sections 827 and 828 , this rule sets forth the procedure for review of otherwise confidential juvenile court records.
13	School district police or security department; disclosure of juvenile criminal records; protection of vulnerable school staff and other students	Welf. & Inst. Code, § 828.1	There is a limitation to the confidentiality of juvenile criminal records in cases involving serious acts of violence—although any dissemination should be as limited as possible and take into consideration school-related issues.
14	Crimes against property, students, or personnel of school; juvenile custody or commission; information sharing	Welf. & Inst. Code, § 828.3	Notwithstanding any other provision of law, information relating to the taking of a minor into custody on the basis that he or she has committed a crime against the property, students, or personnel of a school district or a finding by the juvenile court that the minor has committed such a crime may be exchanged between law enforcement personnel, the school district superintendent, and the principal of a public school in which the minor is enrolled as a student if the offense was against the property, students, or personnel of that school.
15	Review of juvenile court records; suitability for release	Welf. & Inst. Code, § 829	Notwithstanding any other provision of law, the Board of Prison Terms, in order to evaluate the suitability for release of a person before the board, shall be entitled to review juvenile court records that have not been sealed, concerning the person before the board, if those records relate to a case in which the person was found to have committed an offense that brought the person within the jurisdiction of the juvenile court pursuant to Section 602.
16	Nonprivileged information and writings; disclosure among members of juvenile justice multidisciplinary team	Welf. & Inst. Code, § 830.1	<p>Notwithstanding any other provision of law, members of a juvenile justice multidisciplinary team engaged in the prevention, identification, and control of crime, including, but not limited to, criminal street gang activity, may disclose and exchange nonprivileged information and writings to and with one another relating to any incidents of juvenile crime, including criminal street gang activity, that may also be part of a juvenile court record or otherwise designated as confidential under state law if the member of the team having that information or writing reasonably believes it is generally relevant to the prevention, identification, or control of juvenile crime or criminal street gang activity. Every member of a juvenile justice multidisciplinary team who receives such information or writings shall be under the same privacy and confidentiality obligations and subject to the same penalties for violating those obligations as the person disclosing or providing the information or writings. The information obtained shall be maintained in a manner that ensures the protection of confidentiality.</p> <p>As used in this section, “nonprivileged information” means any information not subject to a privilege pursuant to Division 8 (commencing with Section 900) of the Evidence Code.</p> <p>As used in this section, “multidisciplinary team” means any team of three or more persons, the members of which are trained in the prevention, identification, and control of juvenile crime, including, but not limited to, criminal street gang activity, and are qualified to provide a broad</p>

			<p>range of services related to the problems posed by juvenile crime and criminal street gangs. The team may include, but is not limited to,</p> <ul style="list-style-type: none"> (a) Police officers or other law enforcement agents (b) Prosecutors (c) Probation officers (d) School district personnel with experience or training in juvenile crime or criminal street gang control (e) Counseling personnel with experience or training in juvenile crime or criminal street gang control (f) State, county, city, or special district recreation specialists with experience or training in juvenile crime or criminal street gang control.
17	Records of mental health treatment or services	Welf. & Inst. Code, § 5328 et seq.	Records of mental health treatment, services, or confinement are confidential as described in the Welfare and Institutions Code section 5328 et seq.
18	Confidentiality; rules and regulations; violations; disclosure of confidential information regarding criminal act	Welf. & Inst. Code, § 10850 et seq.	All records and information regarding the identity of applicants for or recipients of public social services grants are confidential and not open to examination for any purpose not directly involved with the administration of the grant program or any investigation, prosecution, or criminal or civil proceeding conducted regarding the administration of the program. Exceptions and authorizations of disclosure are listed in the codes.

APPENDIX 2—ROTATION ASSIGNMENT FOR LONGITUDINAL (100%) SAMPLE
California Rules of Court, rule 10.855
As of January 1, 2010

YEAR OF FILING	CALIFORNIA SUPERIOR COURTS		
	Group 1	Group 2	Group 3
2010	Siskiyou	Solano	Santa Clara
2011	Trinity	Sonoma	Santa Cruz
2012	Alpine	Sutter	Stanislaus
2013	Amador	Tehama	Tulare
2014	Calaveras	Yolo	Tuolumne
2015	Colusa	Yuba	Ventura
2016	Del Norte	Alameda	Fresno
2017	Glenn	Butte	Imperial
2018	Inyo	Contra Costa	Kern
2019	Lassen	El Dorado	Kings
2020	Mariposa	Humboldt	Los Angeles
2021	Lake	Madera	Modoc
2022	Marin	Merced	Mono
2023	Mendocino	Monterey	Plumas
2024	Napa	Orange	San Benito
2025	Nevada	Riverside	Sierra
2026	Placer	San Bernardino	Siskiyou
2027	Sacramento	San Diego	Trinity
2028	San Francisco	San Luis Obispo	Alpine
2029	San Joaquin	San Mateo	Amador
2030	Shasta	Santa Barbara	Calaveras
2031	Solano	Santa Clara	Colusa
2032	Sonoma	Santa Cruz	Del Norte
2033	Sutter	Stanislaus	Glenn
2034	Tehama	Tulare	Inyo
2035	Yolo	Tuolumne	Lassen
2036	Yuba	Ventura	Mariposa

YEAR OF FILING	CALIFORNIA SUPERIOR COURTS		
	Group 1	Group 2	Group 3
2037	Alameda	Fresno	Modoc
2038	Butte	Imperial	Mono
2039	Contra Costa	Kern	Plumas
2040	El Dorado	Kings	San Benito
2041	Humboldt	Los Angeles	Sierra
2042	Madera	Siskiyou	Lake
2043	Merced	Trinity	Marin
2044	Monterey	Alpine	Mendocino
2045	Orange	Amador	Napa
2046	Riverside	Calaveras	Nevada
2047	San Bernardino	Colusa	Placer
2048	San Diego	Del Norte	Sacramento
2049	San Luis Obispo	Glenn	San Francisco
2050	San Mateo	Inyo	San Joaquin
2051	Santa Barbara	Lassen	Shasta
2052	Santa Clara	Mariposa	Solano
2053	Santa Cruz	Modoc	Sonoma
2054	Stanislaus	Mono	Sutter
2055	Tulare	Plumas	Tehama
2056	Tuolumne	San Benito	Yolo
2057	Ventura	Sierra	Yuba
2058	Fresno	Siskiyou	Alameda
2059	Imperial	Trinity	Butte
2060	Kern	Alpine	Contra Costa
2061	Kings	Amador	El Dorado
2062	Los Angeles	Calaveras	Humboldt
2063	Colusa	Lake	Madera
2064	Del Norte	Marin	Merced
2065	Glenn	Mendocino	Monterey

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(Index will be developed for TCRM Version 2.0.)