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# Trial Court Records Manual

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Judicial Council *of* California

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**1. Introduction ..... 1**
1.1 Background ..... 2
1.2 Purpose of Records Management ..... 3
1.3 Purpose of the Manual ..... 5
1.4 Life Cycle of a Record ..... 5
1.5 Key Definitions ..... 6
**2. Statutes and Rules of Court Governing Trial Court Records Management ..... 8**
2.1 California Government Code ..... 8
2.1.1 Signatures on electronically created court documents ..... 8
2.2 California Rules of Court ..... 8
**3. Records Management Administration ..... 10**
3.1 Application of Standards ..... 10
3.2 Responsibility for Effective Records Management ..... 10
3.3 Duties and Responsibilities of Records Managers ..... 10
**4. Creation, Filing, and Retrieval of Court Records ..... 12**
4.1 Court Record Creation Process ..... 12
4.1.1 Filing papers in court: Methods of filing ..... 12
4.1.2 Filing papers in court: Form and format requirements ..... 19
4.1.3 Filing papers in court: Role of civil fees and fee waivers ..... 20
4.2 Numbering Schematic for Court Records ..... 22
4.3 Filing Systems for Court Records Maintained in Paper Format ..... 22
4.3.1 Numerical filing systems by case number ..... 23
4.3.2 Alphanumeric filing systems by case number ..... 23
4.3.3 Terminal digit filing systems by case number ..... 24
4.4 Electronic Format Filing Protocols ..... 24
4.4.1 E-filing overview ..... 24
4.4.2 Where e-filing is a required option by law ..... 25
4.4.3 Advantages of e-filing ..... 25
4.5 Court Record Location Tracking ..... 25
4.5.1 Paper record tracking ..... 25
4.5.2 Electronic file tracking and security ..... 27
**5. Record Classification ..... 29**
5.1 Standard Record Classifications ..... 29
5.1.1 Case record classification ..... 29
5.1.2 Prefilled records ..... 31
5.1.3 Lodged records ..... 32

5.1.4 Exhibits ..... 32
5.1.5 Juror records ..... 32
5.2 Confidential and Sealed Records ..... 32
5.3 Subpoenaed Records and Documents ..... 32
**6. Storage, Maintenance, and Electronic Signing of Records ..... 34**
6.1 Standards for Paper and Electronic Records ..... 34
6.1.1 Standards for paper records storage facilities ..... 34
6.1.2 Standards for microfilm ..... 35
6.1.3 Standards for electronic records ..... 37
6.1.3.1 Process overview ..... 37
6.1.3.2 File formats ..... 38
6.1.3.3 Scanning and digitizing ..... 41
6.1.3.4 Public access and reproduction ..... 46
6.1.3.5 Confidential and sealed records ..... 47
6.1.3.6 Integrity and security of records ..... 48
6.1.3.7 Technology refresh ..... 49
6.1.3.8 Data backup and storage ..... 50
6.1.3.9 Retention and destruction ..... 53
6.1.3.10 References ..... 53
6.2 Electronic Signatures: Standards and Guidelines ..... 54
6.2.1 Electronic signatures on court-created records ..... 54
6.2.2 Electronic signatures on documents submitted to the courts ..... 59
6.2.3 Signatures on scanned documents ..... 64
6.2.4 Electronic transfer of death penalty records ..... 64
**7. Exhibits Management ..... 66**
7.1 Exhibits in Civil Cases ..... 66
7.2 Exhibits in Criminal Cases ..... 67
7.2.1 Dangerous and biohazardous exhibits ..... 67
7.2.1.1 Exhibits that pose a security, storage, or safety problem (Pen. Code, § 1417.3(a)) ..... 67
7.2.1.2 Exhibits that are toxic (Pen. Code, § 1417.3(b)) ..... 67
7.2.1.3 Dangerous or deadly weapons, narcotics or poisonous drugs, explosives, or any property the possession of which is prohibited by law (Pen. Code, § 1417.6(a)) and biological material for DNA testing (Pen. Code, § 1417.9(a)) ..... 68
7.2.2 Unclaimed exhibits of money or currency or other property, and photographs of minors found to be harmful matter ..... 68
7.2.2.1 Unclaimed exhibits of money or currency (Pen. Code, §§ 1417.5(c)(4), 1420–1422) ..... 68

7.2.2.2 Unclaimed exhibits of other property (Pen. Code, § 1417.5(c)(1)–(3)) .....69
7.2.2.3 Exhibits that are photographs of minors found to be harmful matter (Pen. Code, § 1417.8(a)) .....69
7.2.3 Death penalty exhibits .....70
**8. Public Calendars, Indexes, and Registers of Action: Minimum Standards .....71**
8.1 Minimum Content for Electronically Accessible Court Calendars, Indexes, and Registers of Action .....72
8.2 Information that Must Be Excluded From Electronically Accessible Court Calendars, Indexes, and Registers of Actions .....72
**9. Disaster Recovery Planning and Procedures .....74**
9.1 Planning for a Disaster .....74
9.2 Response to Disasters .....74
9.3 Disaster Recovery .....75
**10. Public Access to Court Records .....77**
10.1 Access to Electronic Court Records .....77
10.2 Remote Access Allowed in High-Profile Criminal Cases .....78
10.3 Confidential and Sealed Records .....78
10.3.1 Confidential records .....78
10.3.2 Sealed records .....93
10.4 Judicial Administrative Records .....94
10.5 Civil Subpoenas and Related Fees .....94
**11. Retention, Preservation, and Destruction of Court Records .....96**
11.1 Retention, Preservation, and Destruction Practices .....96
11.1.1 Court records sampling program .....97
11.2 Inactive Records Storage .....99
11.3 Noncapital Cases in Which the California Supreme Court Issues a Written Opinion .....100
11.4 Schedule of Records Retention and Destruction and Special Case Type Characteristics .....101
11.4.1 Records retention and destruction schedule under Government Code sections 68152 and 68153 .....101
11.4.2 Records retention and destruction schedule for other records .....119
**Appendixes .....120**
Appendix 1: Court Records Designated Confidential by Statute or Rule .....121
Appendix 2: Rotation Assignment for Samples .....141
Appendix 3: Recommended Methods of Exhibit Disposal .....146

# 1. Introduction

This Trial Court Records Manual (TCRM) has been developed by court administrators for court administrators and is published under the direction of the Judicial Council of California (Judicial Council). The vision of the court administrators and Judicial Council 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 manual 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 for managing electronic records.



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 requirements typically contain links to the relevant statutes or rules.

This manual is revised and updated periodically. Users are encouraged to submit in writing records management questions and suggestions for improving the manual to TCRM@jud.ca.gov or:
Court Executives Advisory Committee
c/o Judicial Council of California
Judicial Council and Trial Court Leadership
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## 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 edition 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 in 2000, when the trial courts were unified. However, at this point, there needed to be a merger of the records management systems of the former municipal courts and the (now unified) superior courts. 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. These transitions have changed the opportunities and challenges facing trial courts in establishing and maintaining an appropriate records management program.

Currently, 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 document management systems containing document images. Some information 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's Court Executives Advisory Committee and Court Technology Advisory Committee cosponsored a proposal for Judicial Council–sponsored legislation 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. The court records legislation was introduced as Assembly Bill 1926 (Evans) in 2010. It amended the law on court records management, effective January 1, 2011, to authorize the council to adopt rules to establish guidelines for the creation, maintenance, reproduction, and preservation of court records.

The changes to the Government Code required the adoption of 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 Judicial 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 Judicial Council staff, in collaboration with trial court presiding judges and court executives, 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 was modified to include requirements in the TCRM for court records preserved as part of the superior court records sampling program.[1] The new and amended rules became effective on January 1, 2011. On the same date, the initial version of this manual became effective.

## 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 trial court records manual 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:

[1] The Judicial Council subsequently amended rule 10.855, effective July 1, 2016, to revise the superior court records sampling program, and effective January 1, 2018, to remove a reporting requirement. Additional information about the new sampling program is available in section 11.1.1 of this manual.

- *Creation.* 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.

- *Maintenance.* 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.

- *Access.* 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.

- *Retention.* 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.

- *Destruction.* 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, becomes accessible only to certain groups, or is subject to public access requests under rule 10.500, is a policy decision that the records management program must correctly implement.

The goal of this manual 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 this manual 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. Judicial Council 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 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

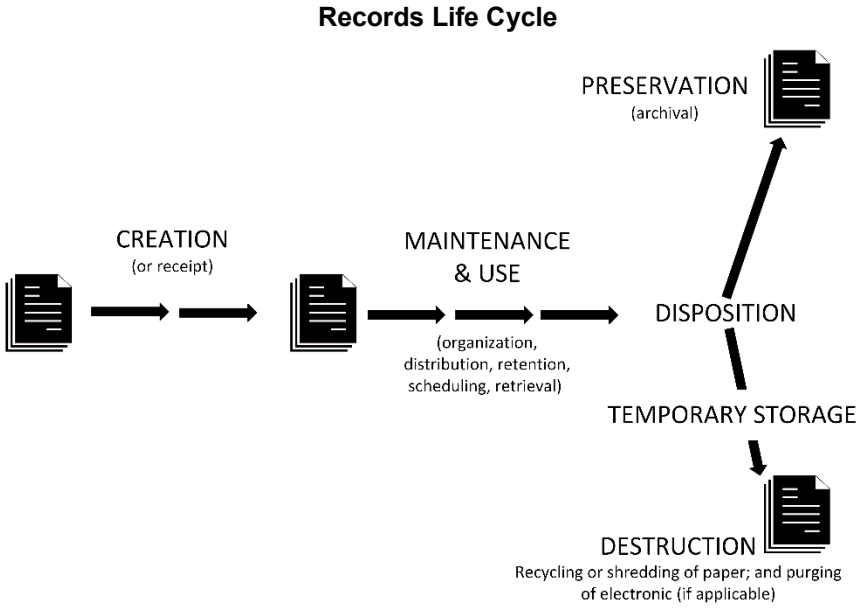
Courts often make the fundamental error of viewing records management only as the sampling, archiving, and destroying of case files in accordance with various statutes and rules of court. This manual is predicated on an expanded definition of records management that encompasses the complete life cycle 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 of?

- 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.




## 1.5 Key Definitions

### Court Record

Any document, paper, or exhibit filed in 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. This term does not include the personal notes or preliminary memoranda of judges or other judicial branch personnel, statutorily mandated reporting between or within government entities, judicial administrative records, court case information, or compilations of data drawn from court records where the compilations are not themselves contained in a court record. (Cal. Rules of Court, rule 2.502(3).)

**Electronic Record**

A court record that requires use of an electronic device to access. The term includes both a record 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(6).)

**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

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, writ, subpoena, or other legal process 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. Section 6.2.1 of this manual provides standards and guidelines for signing, subscribing, and verifying court documents by electronic means.

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 Trial Court Records**
Rule 2.400. Court records

**Trial Court Records Management**
Rule 10.850. Trial court records
Rule 10.851. Court indexes—automated maintenance
Rule 10.854. Standards and guidelines for trial court records
Rule 10.855. Superior court records sampling program
Rule 10.856. Notice of superior court records destruction

**General Provisions for Access to Electronic Trial Court Records**
Rule 2.500. Statement of purpose
Rule 2.501. Application, scope, and information to the public
Rule 2.502. Definitions

**Public Access to Electronic Trial Court Records**
Rule 2.503. Application and scope
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

**Remote Access by a Party, Party's Designee, Party's Attorney, Court-Appointed Person, or Authorized Person Working in a Legal Organization or Qualified Legal Services Project**
Rule 2.515. Application and scope
Rule 2.516. Remote access to extent feasible
Rule 2.517. Remote access by a party
Rule 2.518. Remote access by a party's designee
Rule 2.519. Remote access by a party's attorney
Rule 2.520. Remote access by persons working in the same legal organization as a party's attorney
Rule 2.521. Remote access by a court-appointed person
Rule 2.522. Remote access by persons working in a qualified legal services project providing brief legal services
Rule 2.523. Identity verification, identity management, and user access
Rule 2.524. Security of confidential information
Rule 2.525. Searches; unauthorized access
Rule 2.526. Audit trails
Rule 2.527. Additional conditions of access
Rule 2.528. Termination of remote access

**Remote Access by Government Entities**
Rule 2.540. Application and scope
Rule 2.541. Identity verification, identity management, and user access
Rule 2.542. Security of confidential information
Rule 2.543. Audit trails
Rule 2.544. Additional conditions of access
Rule 2.545. Termination of remote access

**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 TCRM provides standards and guidelines for court records maintained by the California trial courts. As previously noted, 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. Except for technical changes, corrections, or minor substantive 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. Under 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 (1) ensuring that appropriate notices of destruction are prepared and disseminated by mail or publication, (2) permanently maintaining data points for the index, (3) monitoring the destruction of records, (4) validating records destruction, (5) obtaining certificates of destruction from qualified service providers, and (6) updating the index to reflect destruction, or maintaining a separate destruction index;
- Research new and emerging technologies that are designed to assist organizations with records management;
- Monitor inventory and maintain security at offsite storage;
- Provide guidance to court operation managers regarding their role in records management; and
- Train subordinates and representatives of related entities in records management.

# 4. Creation, Filing, and Retrieval of Court Records

Records management is a specialized field of court administration involving determinations about how records will be organized, categorized, and stored, and in what format (paper or electronic) they will be maintained. 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 Document Management Systems (DMS);
- 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

One of the most basic and critical functions performed by trial courts is the creation and maintenance of the case record. The case record consists of documents filed by attorneys, self-represented litigants, local justice agencies, and other case parties who submit documents to the court. In some instances, courts also create and file documents that become part of the case record. This section is intended to provide court staff with suggested guidance regarding the creation and maintenance of case records that are submitted by litigants, their attorneys, and others involved in cases. This section does not address case records prepared by the courts themselves.

### 4.1.1 Filing papers in court: Methods of filing

**Effective Filing Date.** Currently, courts receive legal documents for filing and processing through various means including:

- Over the counter;
- By mail;
- By drop box;
- By e-filing, directly or through an e-filing service provider (EFSP);
- As an attachment to email (often referred to as e-delivery); and
- By fax.

Government Code section 69846.5 states, “The clerk of the superior court shall endorse on each paper filed with the court the day, month, and year it is filed.” The issue of when a paper is deemed “filed” depends on the applicable law for the mode of delivery and the type of filing. To

assist courts in determining the effective filing date for court documents, the following is a list of applicable statutes and California Rules of Court for documents received through various means.

Note that the filing date depends on when the document was received by the court, and not on when the court completed processing of the document. It takes a finite amount of time for the clerk's office to review a document, determine whether it meets filing criteria as to form and attachments, check the fee payment, if any, enter data into a register of action or case management system, and scan the document, if scanning is done. These steps may take several minutes, spread over several hours. As a result, the document processing may not be complete on the same day the document is received. Nonetheless, the filing date should be the date received.

- **Filing in person—**Rule 1.20 of the California Rules of Court: "Unless otherwise provided, a document is deemed filed on the date it is received by the court clerk."

- **Filing by mail—**Rule 1.20 of the California Rules of Court: "Unless otherwise provided, a document is deemed filed on the date it is received by the court clerk."

- **Filing at drop box—**Government Code section 68108(b) and rule 2.210(b)–(c) of the California Rules of Court.

  Government Code section 68108(b) states: "A drop box shall provide for an automated, official time and date stamping mechanism or other means of determining the actual date on which a document was deposited in the drop box."

  Rule 2.210(b) of the California Rules of Court states: "Any document deposited in a court's drop box up to and including 4:00 p.m. on a court day is deemed to have been deposited for filing on that day. A court may provide for same-day filing of a document deposited in its drop box after 4:00 p.m. on a court day. If so, the court must give notice of the deadline for same-day filing of a document deposited in a drop box."

  Rule 2.210(c) of the California Rules of Court states: "Any document deposited in a court's drop box is deemed to have been deposited for filing on the next court day if: [¶] (1) It is deposited on a court day after 4:00 p.m. or after the deadline for same-day filing if a court provides for a later time; or [¶] (2) It is deposited on a judicial holiday."

- **Filing electronically—**Code of Civil Procedure section 1010.6 and rules 2.252–2.255 and 2.259 of the California Rules of Court.

  If electronic filing is permissive, Code of Civil Procedure section 1010.6(e)(3) and California Rules of Court, rule 2.253(a) apply. Section 1010.6(b)(3) states: "Any document received electronically by the court between 12:00 a.m. and 11:59:59 p.m. on a court day shall be deemed filed on that court day. Any document that is received electronically on a noncourt day shall be deemed filed on the next court day."
  Rule 2.253(a) states: "A court may permit parties by local rule to file documents

electronically in any types of cases subject to the conditions in Code of Civil Procedure section 1010.6 and the rules in this chapter [i.e., rules 2.250–2.261]."

If electronic filing is mandatory, Code of Civil Procedure section 1010.6(e)(3) (referenced above) and California Rules of Court, rule 2.253(b)(6) apply. Rule 2.253(b)(6) states: "The effective date of filing any document received electronically is prescribed by Code of Civil Procedure section 1010.6. This provision concerns only the effective date of filing. Any document that is received electronically must be processed and satisfy all other legal filing requirements to be filed as an official court record."

The California Rules of Court also recognize that a technical problem with a court's electronic filing system may warrant deeming certain late-filed documents as filed when the attempt was made to file the documents rather than when the documents were actually received by the court. Addressing this point, rule 2.259(c) states: "If a technical problem with a court's electronic filing system prevents the court from accepting an electronic filing on a particular court day, and the electronic filer demonstrates that he or she attempted to electronically file the document on that day, the court must deem the document as filed on that day. This subdivision does not apply to the filing of a complaint or any other initial pleading in an action or proceeding."

These laws apply to both e-filed documents and e-delivered documents as the statute contemplates the method of transmission ("electronically"), not the form of the document or message.

- **Filing by fax—**Rules 1.20, 2.303, and 2.304 of the California Rules of Court. Under rule 2.303(a), "[a] party may transmit a document by fax to a fax filing agency for filing with any trial court." Under rule 2.304(a), "[a] party may file by fax directly to any court that, by local rule, has provided for direct fax filing." Under rule 1.20, "[u]nless otherwise provided, a document is deemed filed on the date it is received by the court clerk." (See also Cal. Rules of Court, rule 2.304(d)–(e) [specifying how failures of transmission and rejection of credit card charges are to be handled when a party directly fax files with a court].)

- **Filing on a court holiday—**Code of Civil Procedure section 134(d): "The fact that a court is open on a judicial holiday shall not make that day a nonholiday for purposes of computing the time required for the conduct of any proceeding nor for the performance of any act. Any paper lodged with the court at a time when the court is open pursuant to subdivision (c), shall be filed by the court on the next day that is not a judicial holiday, if the document meets appropriate criteria for filing."

Courts are encouraged to consult these statutes and rules when assessing their filing processes and procedures and to seek assistance from local counsel or from the Judicial Council's Legal Services office if they have specific questions or issues in this regard.

**Filing Redacted Documents.** Rule 1.201 of the California Rules of Court. Rule 1.201(a) directs that certain sensitive personal information—specifically, social security numbers and financial account numbers—must be redacted or excluded from documents filed with the court, with certain exceptions. The responsibility for excluding or redacting information from documents filed with the court rests solely with the parties and their attorneys, not the clerk. (Cal. Rules of Court, rule 1.201(b).) "The court clerk will not review each pleading or other paper for compliance with this provision." (*Ibid*.)

**Filing Records That Are Confidential as a Matter of Law.** For direction in dealing with confidential records, see section 10.3.1, "Confidential Records," and Appendix 1. (For more information about confidential trial court records, see also Judicial Council of Cal., *Privacy Resource Guide: For the California Trial and Appellate Courts and the Judicial Branch* (*Privacy Resource Guide*) § 2.1.1.) Depending on the law, entire cases, categories of cases, or individual documents in a case may be confidential. Some case files and documents may be permanently classified as confidential while others may be confidential only for a specified period of time.

**Filing Records Under Seal.** For direction in dealing with court files and documents ordered sealed, see section 10.3.2, "Sealed Records" (and *Privacy Resource Guide* § 2.1.2). Also, you may consult the following California Rules of Court:

- Filing records under seal, generally—rule 2.551(a): "A record must not be filed under seal without a court order."
- Rule 2.551(d) describes procedures for conditionally lodging documents that may be filed under seal.
- Rule 2.551(f) directs that "[s]ealed records must be securely filed and kept separate from the public file in the case. If the sealed records are in electronic form, appropriate access controls must be established to ensure that only authorized persons may access the sealed records."
- Filing records under seal, in a False Claims Act case—rules 2.570–2.571.

**Types of Documents Maintained in Case Files and Elsewhere (Filed Documents and Other Documents Submitted, Lodged, or Deposited with the Court)**

"The clerk of the superior court shall safely keep or dispose of according to law all papers and records filed or deposited in any action or proceedings before the court." (Gov. Code, § 69846.)

Official court documents used in the adjudication of actions or proceedings, such as complaints, petitions, answers, responses, and motions with or without attached exhibits, are filed with the

court and included in the register of actions, if kept. In addition, parties lodge, deposit, or submit various other documents that are not officially filed and entered into the register of actions.

There are several types of documents that are accorded different treatments based on statutes and rules. To assist courts in determining the appropriate manner of handling these types of documents, the following information is provided:

- **Administrative records—**"Court records" include records of administrative proceedings, for example, before an administrative law judge, that are "filed in [a court] action or proceeding." (Gov. Code, § 68151(a)(2).) Some administrative records may be lodged with a court, but not filed. (See, e.g., Pub. Resources Code, § 21167.6(b)(1) [the record of an administrative proceeding under the California Environmental Quality Act (CEQA) must be lodged with the court]; Cal. Rules of Court, rule 3.2206 [same].) Regardless of whether an administrative record is filed or lodged with a court, it may be considered part of the record on appeal (see Cal. Rules of Court, rules 8.120(a)(2), 8.123.) For that reason, even a lodged administrative record should likely be preserved through any appeal at least until final disposition of the case.

- **Arrest warrants with no existing related case—**Law enforcement and other agencies can request that the court issue an arrest warrant. Often there is not yet a filing or case involving the proposed arrestee, and there may never be a court filing. Consequently, the court will have arrest warrants issued by a judge that are not associated with any case at the time of issuance.

  Because arrest warrants may not be associated with a particular case, it is important for the court to have a specific procedure for identifying, storing, and retrieving every warrant. In this system, arrest warrants should typically be indexed by the name of the person to be arrested.



There are several options for where to maintain arrest warrants, given the possibility that a case will be filed related to a warrant. When a case is subsequently filed, it can be very problematic for court staff to identify the existence of an associated arrest warrant, let alone find the warrant and place it in or link it to the case file. One option is to have court staff attempt to match "orphan" arrest warrants with new cases as they are filed, though this may be a time-consuming activity for relatively infrequent occurrences. A second option is to leave warrants in the location where they were originally placed and for court staff to locate a warrant when an issue about the warrant is raised in a particular case. While this involves less work for the clerk's office, being done only when needed, it still places the burden on the clerk to find the arrest warrant. Another option would be for the court to indicate to parties that if they raise an issue about the warrant, they should contact the agency that originally requested the warrant to produce the warrant. This will lessen the burden on court staff to spend resources locating the warrant in a particular case. If the agency cannot find the warrant and supporting documents, or there is a

question about the validity of the documents offered, the court can then direct the clerk to produce the documents maintained by the court.

The arrest warrants should be retained for the period provided by statute, as they document the decisions of a judicial officer, which may be litigated in a subsequently filed case. (See Gov. Code, § 68152(c)(12) [retention period].)

Certain arrest records may be confidential. See section 10.3.1, "Confidential Records," and Appendix 1.

- **Court transcripts—**Some court reporter's transcripts, such as preliminary hearing transcripts and transcripts prepared as part of an appellate record, may be included in the case file. Although part of the case file, these transcripts are subject to different requirements from other records in the case file with respect to copying and electronic access. Transcripts shall be in the court's official digital record, but printing should be disabled, blocked, or allowed with limitations. Courts generally may not provide or sell a copy of a transcript to a party or other person without an additional fee being paid to the court reporter. (Gov. Code, § 69954.) The requirement that a court's electronic records generally must be "reasonably available to the public in some form" (Cal. Rules of Court, rule 2.503(a)(1)) explicitly does not apply to copies of reporter transcripts for which a reporter is entitled to receive a fee. (See *id*., rule 2.502(3), (6) [excluding such transcripts from the definitions of "court record" and "electronic record" for purposes of the rules on public access to electronic trial court records].) If a request is received for a copy of a reporter's transcript, the requester should be directed to contact the court reporter who reported the hearing. (See Gov. Code, § 69954.)

- **Exhibits—**See sections 5.1.4 and 7.1 et seq.

- **Juror records—**See sections 5.1.5, 11.4.1, and 11.4.2.

- **Lodged records—**See section 5.1.3.

- **Mandatory settlement conference statements—**These statements are submitted to the court rather than filed and should be transmitted to the judicial officer who will conduct the conference. California Rules of Court, rule 3.1380(c) states, "No later than five court days before the initial date set for the settlement conference, each party must submit to the court and serve on each party a mandatory settlement conference statement … ."

- **Prefiled records—**See section 5.1.2.

- **Proposed orders—**Proposed orders in civil cases are governed by rule 3.1312 of the California Rules of Court. These are generally submitted to the court rather than filed and should be transmitted to the appropriate judicial officer for further action. (See Cal. Rules of Court, rule 3.1312(b).) Special procedures exist for handling proposed orders that are

submitted electronically—two versions of the proposed order must be submitted to the court: (1) a portable document format (PDF) version attached to a completed *Proposed Order (Cover Sheet)* (form EFS-020), which is filed, and (2) a version in an editable word-processing format, which is made available for the judge's use. (See *id.*, rule 3.1312(c).)

- **Search warrants—**See discussion and options under "Arrest Warrants," above. Because search warrants may not be associated with a particular case, it is important for the court to have a specific procedure for identifying, storing, and retrieving every search warrant. For example, search warrants could be organized by the location of the place to be searched.

  Certain search warrants or information contained in a search warrant may be confidential. See section 10.3.1, "Confidential Records," and Appendix 1.

- **Trial subpoenas—**See section 5.3, "Subpoenaed Records and Documents."

- **Wills—**Original wills must be delivered to the court under Probate Code section 8200. Section 8200(a) states: "Unless a petition for probate of the will is earlier filed, the custodian of a will shall, within 30 days after having knowledge of the death of the testator … [¶] (1) [d]eliver the will … to the clerk of the superior court of the county in which the estate of the decedent may be administered."

  An original will is lodged or deposited with the court rather than filed; however, a copy of the will must be attached to the petition for probate filed with the court. (See *id.*, § 8002(b)(1).)



**Letters and other correspondence—**Generally, correspondence sent to the court should be placed in the same physical file with the other documents in a case (under Gov. Code, § 69846) but is not entered into the register of actions. (See *id.*, § 69845 [register of actions].) The correspondence should be organized separately from the filed documents. The correspondence may be marked with a "received" stamp and placed in the file in chronological order. Courts maintaining records in electronic form should consider establishing a process or procedure for addressing correspondence received in the case, separate from the documents that are filed.

Some correspondence may require special treatment. For example:

*Correspondence requesting action*—Correspondence that seeks a particular action should be processed by the court or judicial officer, as appropriate. Thus, letters containing proposed orders should be transmitted to the appropriate judicial officer. A request for copies of court documents should be processed by the court if the requesting party has paid the costs of copying and mailing. Complaints against judicial officers should be processed in accordance with the court's procedures. (See Cal. Rules of Court, rule

10.703 [subordinate judicial officers] and rule 10.746 [temporary judges].)

*Ex parte communications*—Correspondence that seeks to communicate with the judicial officer handling a matter, without a copy being served on other parties that have appeared in the action, should not be placed in the file where it might be seen by a judicial officer involved in the case. (See Cal. Code Jud. Ethics, canons 3B(7), 6D(2) [judges, temporary judges, referees, and court-appointed arbitrators "shall not … permit … or consider ex parte communications"].) Instead, courts should develop procedures whereby such communications are returned to the submitting party with an explanation as to why the document was not placed in the case file. (But see Cal. Rules of Court, rules 3.1200–3.1207 [governing ex parte applications and orders in civil cases].)

### 4.1.2 Filing papers in court: Form and format requirements

**Form and Format of Papers Filed in the Trial Courts.** Rules 2.100–2.116 of the California Rules of Court prescribe the form and format of papers presented for filing in the trial courts. These rules preempt any local rules on the form and format of papers. (Cal. Rules of Court, rule 2.100(a).) The form and format requirements in rules 2.100–2.116 generally do not apply to Judicial Council forms, local court forms, or forms for juvenile dependency proceedings. (*Id.*, rule 2.119.)

**Court's Acceptance or Rejection of Papers for Filing.** The clerk of the court generally must not accept papers for filing that do not comply with the form and format requirements in rules 2.100–2.116 of the California Rules of Court. (*Id.*, rule 2.118.) But, the clerk must not reject a paper for filing solely on the ground that (1) it is handwritten or hand-printed, (2) the handwriting or hand printing on the paper is in a color other than black or blue-black, (3) the font size is not exactly the point size required by rules 2.104 and 2.110(c) on papers submitted electronically as PDFs, or (4) the first page does not contain an attorney's or a party's fax number or email address. (*Id.*, rule 2.118(a)–(b).) For good cause, the court may permit the filing of papers that do not conform to the form and format requirements. (*Id.*, rule 2.118(c).) While the responsibilities of the clerk under (a) and (b) are ministerial, the good cause determination to permit filing under (c) is a judicial function.

**Duty to File Documents.** "If a document is presented to the clerk's office for filing in a form that complies with the rules of court, the clerk's office has a ministerial duty to file it. (See *Carlson v. Department of Fish & Game* (1998) 68 Cal.App.4th 1268, 1276.) Even if the document contains defects, the clerk's office should file it and notify the party that the defect should be corrected. (See *Rojas* [*v. Cutsforth* (1998)] 67 Cal.App.4th [774,] 777.)" (*Voit v. Superior Court* (2011) 201 Cal.App.4th 1285, 1287.)

**Effect of Failure to Submit Civil Case Cover Sheet.** The first paper filed in a civil action or proceeding must be accompanied by a completed *Civil Case Cover Sheet* (form CM-010). (Cal. Rules of Court, rule 3.220.) But if a party that is required to provide a cover sheet under rule 3.220 or a similar local rule fails to do so or provides a defective or incomplete cover sheet at the

time the party's first paper is submitted for filing, the clerk must still file the paper; failure to file a cover sheet may subject a party or a party's counsel to monetary sanctions. (*Id.*, rule 3.220(c).)

### 4.1.3 Filing papers in court: Role of civil fees and fee waivers

**Effects of Failure to Pay All Required Filing Fees.** Effect on filing of a failure to pay filing fees depends, among other things, on:

- Whether the party is required to pay a filing fee;
- Whether an application for a fee waiver was submitted;
- Whether the party paid no fee at all;
- Whether the amount tendered was less than the amount of the required fee;
- Whether the amount was tendered by a check that was returned for insufficient funds; and
- Whether a credit card payment was rejected.

The following additional information is provided regarding filing fees and fee waivers:

- **Schedule of fees**—A statewide civil fee schedule is available online at *courts.ca.gov/news-reference/reports-publications/civil-fees*. Many courts also prepare their own fee schedules. The schedules list the documents which, upon filing, require payment of a fee and the amount of the fee. Note: (1) Certain documents do not require payment of a fee to be filed (see, e.g., Gov. Code, § 70617(b)); (2) State and local government entities are generally exempt from paying civil filing fees (see *id.*, § 6103; for some other exemptions from fees for court services, see *id.*, § 70633).

- **No fee paid**—If a party is required to pay a fee for filing a particular document and no fee is tendered, the court may reject the filing unless the party has submitted a fee waiver application with its papers or a fee waiver has previously been granted in the action. The exception to the rule is the filing of the notice of appeal (Cal. Rules of Court, rules 8.100(b)(3), 8.821(b)(2)): "The clerk must file the notice of appeal even if the appellant does not present the filing fee, the deposit, or an application for, or order granting a waiver of fees and costs." Cal. Rules of Court, rules 8.100(c) and 8.821(c) provide further directions for the court clerk when there is a failure to pay the filing fee on an appeal.

- **Fee waivers**—Government Code sections 68630–68641; California Rules of Court, rules 3.50–3.58. The clerk shall accept all applications for an initial fee waiver for filing. If an applicant submits an application without providing all required information to complete the form, the clerk may request that the applicant supply the omitted information, but shall not refuse to file the application, or refuse to file any pleadings accompanying the application, on the ground that the fee has not been paid. (Gov. Code, § 68634(b).)

- **Amount tendered is less than the amount of the required filing fee**—Code of Civil Procedure section 411.21. If a complaint or other first paper, except in an unlawful detainer action, is accompanied by a check in an amount less than the required fee, the

clerk shall accept the paper for filing, but shall not issue a summons until the court receives full payment of the required fee. The court, by mail, shall notify the party tendering the check that (1) the check was made out for an amount less than the required filing fee, (2) the administrative charge specified in the statute has been imposed to reimburse the court for the costs of processing the partial payment and providing the notice, and (3) the party has 20 days from the date of mailing of the notice within which to pay the remainder of the required fee and the administrative charge, except where a hearing is scheduled before the 20-day period expires. (Code Civ. Proc., § 411.21(a).)

The clerk shall void the filing if the party who tendered a check in an amount less than the required filing fee or on whose behalf a check in an amount less than the required filing fee was tendered has not paid the full amount of the fee and the administrative charge within 20 days of the date on which the notice was mailed. (*Id*., § 411.21(b).)

Any filing voided by the section may be disposed of immediately after the 20 days have elapsed without preserving a copy in the court records, notwithstanding Government Code section 68152. (*Id*., § 411.21(b); see *id*., 411.21(a)–(e) for more details; for information concerning the administrative fee, see *id*., § 411.20(g).)

- **Check for fee amount returned for insufficient funds—**Code of Civil Procedure section 411.20. If the clerk accepts for filing a complaint or other first paper, or any subsequent filing, and payment is made by check that is later returned without payment, the clerk shall, by mail, notify the party who tendered the check that (1) the check has been returned without payment, (2) the administrative charge specified in the statute has been imposed to reimburse the court for the costs of processing the returned check and providing the notice, and (3) the party has 20 days from the date of mailing of the notice within which to pay the filing fee and the administrative charge, except where a hearing is scheduled before the 20-day period expires. The notice also shall state that the administrative charge and the filing fee shall be paid in cash, by certified check, or by other means specified by the court, but not by traveler's check or personal check. (*Id*., § 411.20(a).)

  The clerk shall void the filing if the party who tendered a returned check or on whose behalf a returned check was tendered has not paid the full amount of the fee and the administrative charge by a means specified in the statute within 20 days of the date on which the notice was mailed. (*Id*., § 411.20(b).)

  Any filing voided by this section can be disposed of immediately after the 20 days have elapsed without preserving a copy in the court records, notwithstanding Government Code section 68152. (Code Civ. Proc., § 411.20(b); see *id*., § 411.20(a)–(f) for more details; for information concerning the administrative fee, see *id*., § 411.20(g).)

- **Credit card payment is rejected—**Credit card payments rejected by the processing center should be treated as any other failure to pay a filing fee. In most cases, the person submitting the payment (e.g., at the counter or over the internet) is immediately notified of the rejection and can provide payment in some other manner. If a request for credit card payment is received through the mail but rejected by the processing center, the court should notify the submitting party of the rejection using the same procedures utilized when a check is rejected by the bank as described in the previous section of this manual. The only exception is that there should be no administrative charge added to the amount owing.

- **Represented party fails to remit payment to an electronic filing service provider—**If the attorney of record representing a party fails to pay filing fees owed to an electronic filing service provider for five days after notice to the attorney of record, the electronic filing service provider may notify the clerk, and the clerk may notify the attorney of record that the attorney may be sanctioned by the court for nonpayment of fees. The court may sanction the attorney of record if the fees to the electronic service provider remain unpaid 20 days after notice by the clerk. (*Id*., § 411.20.5.)

## 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 the Superior Court of Marin County in 2010 might generate the following unique case numbers: 21-10-CR0000345A for the first defendant and 21-10-CR0000345B for the second defendant.

## 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 and/or operations 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 number



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 number



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.

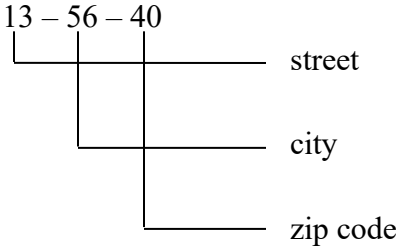
### 4.3.3 Terminal digit filing systems by case number

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 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," are analogous to the zip code designation and provide the general area of the filing system in which the case will be shelved. The middle two digits, "56," narrow 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

Many courts across the country have implemented 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 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.

Initially, a number of courts 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. After many years of transition, many trial courts in California are now almost completely paperless.

Many courts have implemented or are in the process of implementing e-filing. Instead of delivering or mailing a paper document to the court, litigants and lawyers send an electronic version of the information or document to the court, via the internet.

### 4.4.2 Where e-filing is a required option by law

Courts are required to permit e-filing for domestic violence restraining orders and gun violence restraining orders. Beginning January 1, 2027, courts must also permit e-filing for civil harassment and elder and dependent adult abuse restraining orders. See Code of Civil Procedure section 527.6(y), Family Code section 6307, Penal Code section 18122, and Welfare and Institutions Code section 15657.03.

### 4.4.3 Advantages of e-filing

- Improved legal processes, as judges and lawyers learn to take advantage of the universal availability and ease of sharing electronic documents.
- Instantaneous access to court orders (domestic violence restraining orders).
- Enhanced public safety arising from electronic service (where parties consent to e-service).
- Shifting of data entry from the clerk to the filer, thus reducing court staff data entry time and potential for data entry errors.
- Savings for the court of costs incurred to convert most documents from paper to electronic form.
- 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.
- "Greener" filing business processes enabled by e-filing.

## 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,[2] 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 in 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, offsite 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

[2] See discussion of RFID (Radio Frequency Identification) below.

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 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** (**RFID**) is a wireless noncontact system that uses radio-frequency electromagnetic fields to transfer data from a tag attached to an object, for automatic identification and tracking. RFID 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 up to 25 feet away. Staff members are relieved of the responsibility to scan files, as the records 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

An option in modern case management systems (CMS) is to use tracking functionality that describes the activities involved in changing the location of physical case files. The exact look and feel will vary with the CMS used by the individual court. This process can incorporate maintaining a "chain of custody" during the location change of physical case files 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., a facility or 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 tracking functionality 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 court 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 (or requirements for) 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 (and handling requirements for) court case records, these characteristics and special records management directives are included in 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*, i.e., they are grouped together by common attributes, such as operational or statistical reporting needs (e.g., case category = criminal). Case records can also be organized by subcategory or case *type*, i.e., they may be grouped by other common attributes, such as retention periods or other statutory requirements (e.g., case type = felony).

Case type characteristics may include (1) whether records are available to the public or confidential; (2) whether confidentiality requirements apply for the life of the case record or for a limited time; and (3) whether special destruction, deletion, or redaction requirements apply to some portion 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 a 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 standard case record classifications contained in the JBSIS system include the following:

**Appeals**

A classification category for cases appealed to a California Court of Appeal or the 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 that does not exceed $35,000. (Code Civ. Proc., § 85(a).) The civil unlimited category captures cases for which the petitioner/plaintiff is seeking relief of more than $35,000. It also includes 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 type that involves an offense punishable by death, imprisonment in a state prison, or imprisonment in a county jail under the provisions of Penal Code section 1170(h). (See Pen. Code, § 17(a).)

**Juvenile Justice Cases**

A broad classification of cases in which a minor is alleged to have violated a law or ordinance defining crime. (See Welf. & Inst. Code, §§ 601(a) & (b), 602.) The purpose of proceedings in this classification is to provide for the safety and protection of both the public and the minor, and to provide the minor with resources and support to address the issues that led to involvement in the juvenile justice system. (See, e.g., *id*., §§ 202, 1700.)

**Juvenile Dependency Cases**

A broad classification of cases filed on behalf of a minor by a county child welfare agency. (Welf. & Inst. Code, § 325; Cal. Rules of Court, rules 5.502(31), (39), 5.520(b)(1).) The purpose of this type of proceeding is to provide safety and protection for children who are currently being physically, sexually, or emotionally abused, being neglected, being exploited, or are at risk of such harm. (Welf. & Inst. Code, § 300.2.)

**Mental Health Cases**

A broad classification of cases in which a trial court is asked to make a determination about a person's need for involuntary mental health treatment. This may occur where:

- A person has been certified for involuntary intensive treatment because the person is alleged to be dangerous or to be gravely disabled as a result of a mental health disorder or impairment by chronic alcoholism (see, e.g., Welf. & Inst. Code, § 5250 et seq.; *id*., § 5270.15 et seq.);
- A person is considered for civil commitment or extension of a civil commitment (see, e.g., Pen. Code, § 1026 et seq. [not guilty by reason of insanity], § 1370 et seq. [incompetent to stand trial], § 1600 et seq. [outpatient placement and revocation], § 2962 et seq. [mentally disordered offender]; Welf. & Inst. Code, § 709 [minor who is the subject of juvenile proceedings, incompetent], § 5300 et seq. [imminently dangerous persons], § 6300 et seq. [mentally disordered sex offenders; repealed prospectively only,

see Stats. 1981, ch. 928, §§ 3–4, p. 3485]), § 6500 et seq. [developmentally disabled persons dangerous to self or others], § 6600 et seq. [sexually violent predators];
- An order is sought directing a person to obtain assisted outpatient treatment for a mental illness (*Id.*, § 5345 et seq.);
- An order is sought requiring medical treatment for an involuntarily detained person (*Id.*, § 5325 et seq.);
- A person is the subject of a conservatorship petition based on alleged grave disability as a result of a mental health disorder or impairment by chronic alcoholism (*Id.*, § 5350 et seq.); or
- A person or law enforcement agency seeks a determination about whether the person may own or possess a firearm or other deadly weapon (*Id.*, § 8100 et seq.).

**Misdemeanor and Infraction Cases**

Misdemeanors are crimes or public offenses that are not felonies and are not classified as infractions. (Pen. Code, § 17(a).) Infractions are a category of crimes, other than felonies and misdemeanors, that are punishable by a fine or other penalty but not by imprisonment. (*Id.*, §§ 17(d), 19.6–19.8.)

**Probate Cases**

A broad classification of cases in which a trial court is asked to make a legal determination about:

- The disposition or transfer of a deceased person's property (Prob. Code, § 8000 et seq.);
- The appointment of a conservator for an adult (*id.*, § 1800 et seq.);
- The appointment of a guardian for a child (*id.*, § 1500 et seq.);
- The internal affairs or existence of a trust (*id.*, § 17200 et seq.); and
- Other matters governed by the Probate Code.

**Small Claims**

A broad classification category for small claims cases that encompass a wide variety of civil case types in which the remedy sought is $5,000 or less, or, in actions brought by a natural person, $12,500 or less. (See Code Civ. Proc., §§ 116.220–116.221.)

### 5.1.2 Prefilled records

This category includes search warrants, probable cause declarations, wiretaps, grand jury indictments, and investigative reports provided under Penal Code section 1318.1 recommending whether a criminal defendant should be released on his or her own recognizance. Retention, destruction, and special characteristics of some of these records are described in section 11.4.

### 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. (See, e.g., Prob. Code, § 8200 et seq.) 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. (See, e.g., Cal. Rules of Court, rule 2.551(b)(6).)

### 5.1.4 Exhibits

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

### 5.1.5 Juror records

For juror records, see sections 11.4.1 and 11.4.2.

## 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), "[s]ealed records must be securely filed and kept separate from the public file in the case. If the sealed records are in electronic form, appropriate access controls must be established to ensure that only authorized persons may access the sealed records." 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 records produced under subpoenas to be opened at the time of a trial or another hearing. (Evid. Code, § 1560(b), (d).) These documents are typically not file stamped and may or may not be lodged in the court record.

Under Evidence Code section 1560(d), if the parties do not agree otherwise, subpoenaed records delivered to the clerk of the court "shall remain sealed and shall be opened only at the time of trial … or other hearing, upon the direction of the judge … conducting the proceeding, in the presence of all parties who have appeared in person or by counsel at the trial … or hearing. Records that are original documents and that are not introduced in evidence or required as part of

the record shall be returned to the person or entity from whom received. Records that are copies may be destroyed."

# 6. Storage, Maintenance, and Electronic Signing of Records

## 6.1 Standards for Paper and Electronic Records

### 6.1.1 Standards for paper records storage facilities

There are no statutes or rules of court that provide guidance to trial courts related to records storage facilities. The American National Standards Institute, Inc. (ANSI) has adopted the standards below for records storage facilities. Courts are encouraged to adopt these standards to improve the likelihood that paper records will not deteriorate over time and to mitigate the impact of disasters, such as flooding and fires on paper records. Courts are encouraged to adopt these standards not only for designated records storage facilities but for any areas within courthouses that contain paper records.[3]

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 standalone 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.
17. Paper records and/or storage containers should never be stored directly on the floor. Storage containers should be elevated a minimum of three inches from the ground to mitigate potential water damage. Elevation can be obtained by shelving units or pallets.
18. Storage containers should be properly labeled to assist in identifying the contents of the containers and retention period of the records. In the event of an unforeseen incident, this information can assist in mitigating the quantity and cost of remediation efforts.

### 6.1.2 Standards for microfilm

The purpose of reproducing court records is to generate a reliable and usable reproduction that is deemed and considered an original. It is necessary to determine if a reproduction is successful while the source documents are still available for re-imaging. Some level of inspection is necessary to determine if the various requirements have been met.

**A. Processing Microfilm**

Prior to advancements in scanning, courts would convert paper records to microforms, such as microfilm and microfiche, to preserve images of the paper records while reducing quantity of storage necessary to maintain the records in paper format. The proper processing of film is crucial to permanent quality. The following tests are recommended in ANSI/AIIM[4] MS23-1998 and may be performed by a microfilm processing lab or qualified court personnel to ensure quality film is produced:

1. Perform a methylene blue test on the film to determine and measure residual thiosulfate left in the film. Excessive quantities of thiosulfate will over time have a bleaching action, causing

[3] The ANSI standards expressly did not address records used and maintained in file rooms in offices where they were created, records filed in central file areas, or records temporarily stored in staging areas.

[4] AIIM (Association for Information and Image Management) is the official Standards Development Organization for Content and Information Management standards authorized by ANSI.

silver images to turn yellowish brown. The test should be conducted within two weeks after processing. (ANSI/AIIM MS23-1998, § 9.3.2.1.1, pp. 71–72.)

2. Perform a density test. Density is measured on an instrument called a densitometer and is expressed as a numerical measure describing the lightness or darkness of a microfilm image. (ANSI/AIIM MS-23-1998, §§ 6.2.2, 7.1.) A microimage will appear more readable when the contrast, or difference, between the background and the information (or clear) area is high, in terms of density. (*Id*., p. 42.) The density of microfilm is measured in two areas: "Dmin" is the light or clear, unexposed area of the film; "Dmax" is the dark or exposed background area. Camera films should have Dmin densities below 0.10, and Dmax densities near 1.20. (*Id*., § 9.5.1, p. 73.)
3. Perform a resolution test. Resolution, or resolving power, is the measure of a microfilm system's ability to resolve and record fine detail. The resolution directly affects the legibility of documents being filmed. (ANSI/AIIM MS-23-1998, § 6.1.16, p. 33.)
4. Perform a print test to inspect and verify that printed copies are legible. (ANSI/AIIM MS-23-1998, § 10.)

Please note that if any of the above mentioned criteria is not met, the microfilm reel should be rejected and the source documents should be refilmed. Logs should also be kept to record the above-mentioned criteria for each reel tested. (ANSI/AIIM MS-23-1998 at pp. 96–99 [sample forms].)

### B. Industry Standards for Microfilm and Microfiche Records Storage Facilities[5]

Providing a suitable storage environment for microform is essential. If properly stored, microfilm or microfiche can last from 100 (acetate based) to 500 (silver film) years.

Industry standards[6] for storing recommend:

1. Microfilm should be stored in a secured, sealed, airtight room with a constant cool environment with temperatures not exceeding 70 degrees.
2. Relative humidity should be maintained between 20 and 30 percent and should not fluctuate ± 5 percent in a 24-hour period.
3. The storage room should include a properly designed and functioning HVAC system that controls the temperature and humidity and minimizes the infiltration of pollutants.
4. Microfilm enclosures (e.g., paper and plastic boxes) should be made of noncorroding materials that meet certain chemical and photographic criteria.
5. An ongoing inspection procedure should be established to determine if the microfilm is degrading in any way.

[5] See section 6.1.3.3, "Scanning and digitizing."

[6] See, e.g., 36 C.F.R. §§ 1238.5, 1238.20 (incorporating by reference ISO 18911 and ANSI/PIMA [Photographic Imaging & Manufacturers Association, Inc.] IT9.2).

### 6.1.3 Standards for electronic records

Historically, court records have been stored in paper form. However, in 2010, Government Code sections 68150 and 68151 were amended, authorizing courts to create and maintain court records electronically. An electronic record is information produced by, or with the aid of, a computer or other electronic device. An electronic record may be stored on a variety of electronic media (e.g., a hard disk, a solid state drive, a USB or thumb drive, a CD, or a DVD).

Electronic court records may include:

- Documents (e.g., orders, judgments, motions, and declarations);
- Electronically stored exhibits (e.g., photographs, video, and voice recordings[7]);
- Data submitted as part of other filed case records (e.g., fillable forms or electronic filings); and
- Electronic recordings of oral proceedings.

The fact that an electronic device is needed to create and maintain a record does not alter the fact that it is a court record, although the methods used to store and manage electronic records are, of course, different than those used for paper records.

To assist courts in managing their electronic records, this section addresses the following points:

- File formats;
- Scanning and digitizing;
- Public access and reproduction;
- Confidential and sealed records;
- Integrity and security of records;
- Technology refresh;
- Backup and storage; and
- Retention and destruction.

#### 6.1.3.1 Process overview

Courts may convert paper records to electronic records by using a document scanner to create digital images of paper records, reviewing the images on a computer, and storing them in a document repository. During the scanning process, basic information about individual records (associated case numbers, document types, and other case-related information) may be automatically captured or manually entered to create an index. The resulting electronic record is then reviewed for quality assurance and stored.

Courts also create original electronic records and may receive records through electronic filing (or e-filing) systems. Having created or received a new electronic record, a court may add index information about it, such as record type or other case-related information. E-filing systems also

[7] See also, e.g., Pen. Code, § 1524(a)(19) (motor vehicle recording device data may be seized as evidence of certain offenses that resulted in death or serious bodily injury to a person).

ensure that submitted documents are associated with their corresponding case information, and track information such as submission time, and the name of the submitter.

Electronic court records are stored on court-managed computer systems, backup media, and redundant computer systems. A court case management system or standalone document management software controls access.

#### 6.1.3.2 File formats

A file format is a particular way that information is encoded for storage in a computer file. When trying to determine the most appropriate file format to use for long-term access and preservation, a trial court may want to consider whether file formats are:

- Based on open standards and nonproprietary;
- Widely used and accepted; and
- Stable, well-supported, and well-documented.

In choosing file formats, the trial courts should consider current and future compatibility within the trial courts and between the trial courts and their justice partners, as well as accessibility for the public.

**A. Common File Format Types**

***Document files***. Document files are most often created with word-processing programs, which can be saved in a variety of formats. Common file formats for document files include:

- **TXT—**plain text files. File size is small, and the document is searchable but limited to plain text only. There is minimal ability to format document text, and images are not supported.
- **DOC—**developed by Microsoft, widely used in Windows environment. The file size is often large, especially with graphics, and can possibly be used to transmit viruses. DOC files can be edited with Microsoft Word for Windows or MacOS and OpenOffice for Windows, Linux, MacOS, and Solaris.
- **DOCX—**Microsoft's implementation of the XML-based format is not proprietary, so it can be created and used outside of Microsoft Office. The file size is often large, especially with graphics, and can possibly be used to transmit viruses.
- **CSV** (comma-separated values)—a common data-exchange format. Each line of the file is a data record, and each record consists of one or more fields separated by commas or other delimiters (e.g., semicolons, spaces, or tabs).
- **PDF** (portable document format)—developed by Adobe Systems. This format is widely used since it can combine many multimedia elements such as sound, graphics, images, and text in a format that can be read on many platforms, including mobile devices. It is also small in size, and the reader application is free and available on most operating systems. PDF files can only be created and edited with PDF-creation software.

- **PDF/A—**a version of PDF meeting specialized standards set by the International Organization for Standardization (ISO) for long-term archiving of electronic documents. Files are 100 percent self-contained. All information required to display the document is encapsulated in the file. (ISO 19005-1:2005, *iso.org/standard/38920.html*.)

In selecting the appropriate file format for a specific document, courts may wish to consider the requirements or limitations of the court's document viewing software, its case management system, and any other bench tools utilized.

***Graphics files***. Graphics files store an image (e.g., a photograph or drawing). Common file formats for graphic files include:

- **JPEG** (Joint Photographic Experts Group)—commonly used for graphics on webpages and photos taken with a digital camera. The JPEG format utilizes a method known as lossy compression to produce smaller sizes than other formats, effecting a tradeoff between storage size and image quality. JPEG files can be viewed with most web browsers.
- **TIFF** (tagged image file format)—often used for storing high-quality images. Although often produced in an uncompressed format, TIFF files can also utilize lossless compression, allowing reduced file sizes without any loss of image quality. Viewing TIFF images typically requires a picture or fax viewer (often included with computer operating systems).

### B. File Format Characteristics

When choosing a specific file format for electronic records, courts should consider the following characteristics to ensure they meet operational and legal requirements:

- *File size.* File size will vary depending upon the format selected. File size is also related to the portability and searchability of a record. A file encoded to be portable and easily viewed on any device will be larger than one encoded in a more proprietary format. Encoding a file to enable text searching within the record may increase the record size by 5 to 10 percent.
- *Accessibility.* Courts should facilitate public and judicial partner access to electronic records by selecting file formats that provide the broadest level of accessibility. A court should not require the use of a particular software or tool but rather should provide electronic records in a format that can be viewed by a large number of software platforms and devices.
- *Longevity.* Court records have specific retention periods. When selecting a file format, a court needs to determine how long the record will be retained. In general, the longer a file must be kept, the more portable it should be.
- *Searchability.* Some file formats preserve records as an image and therefore result in a file with contents that cannot be searched.

- *Record formatting.* Formatting and content of the original record must be preserved. Nontext images like signatures, charts, or diagrams must be supported by the selected file format.

The chart below summarizes the characteristics:

| Format | File Size | Accessibility | Longevity | Searchable | Document Formatting |
|---|---|---|---|---|---|
| TXT | Small | Excellent | Excellent | Yes | Poor |
| DOCX | Medium | Fair | Fair | Yes | Excellent |
| CSV | Medium | Fair | Fair | Yes | Excellent |
| PDF | Small | Good | Very Good | Yes | Excellent |
| PDF/A | Medium | Good | Excellent | Yes | Excellent |
| JPEG | Large | Very Good | Very Good | No | Good |
| TIFF | Very Large | Very Good | Very Good | No | Excellent |



### C. Selecting a Format

***Recommended:***

1. PDF/A is the recommended file format for long-term/permanent preservation of electronic records. With excellent longevity, searchability, and good accessibility, PDF/A is an excellent choice for courts. Although PDF/A files are slightly larger than PDF files and therefore require more storage space, this issue will become less important over time as the unit cost of storage continues to drop. PDF/A files are approximately 5 percent to 20 percent larger than a PDF file but approximately the same size as a Microsoft Word document.
2. PDF is the recommended file format for short-term preservation of electronic records. Although PDF may not be as accessible as PDF/A in the long term, PDF files are smaller in size and retain all the other benefits of PDF/A.

***Alternatives:***

1. Courts may wish to consider TIFF as an alternative format for long-term preservation of electronic records because it is highly accessible and has very good longevity. However, the inability to perform searches within a TIFF file and its larger file size may make this format unsuitable for some environments.

***Not Recommended:***

1. DOC is a proprietary format and is not recommended. It is developed and managed by a specific vendor for use with specific software programs and is not intended for long-term record preservation.
2. TXT files are unable to capture images and rich document formatting and are not a recommended file format for electronic records.
3. JPEG documents can be large, are unsearchable, and are subject to loss of quality when the original document is converted to electronic format.

#### 6.1.3.3 Scanning and digitizing

Paper documents as well as microfiche and microfilm images may be scanned to create digital images that are stored as electronic records. Accessibility, full text search opportunities, and physical space savings are several reasons that a court may decide to transform its paper documents, making them available electronically. In addition, the challenges of creating ideal temperature-controlled storage areas, maintaining equipment to view images, and the susceptibility to water and fire damage are several reasons that a court may decide to convert microfiche and microfilm images to electronic images. The transition to digital images allows the judicial branch to utilize modern computerized systems more effectively.

**A. Best Practices**

The following best practices will ensure that documents that are scanned and digitally imaged will meet practical requirements for image quality, retention, and security:

- Before disposing of the original paper documents after they are scanned, courts should ensure that there are at least two copies of the record stored in electronic format on a trusted system (e.g., production and storage backup or local and disaster recovery copies).
- To ensure image quality, courts should use a minimum scanning resolution of 300 dots per inch (dpi) for all *future* projects when electronically imaging documents for archival purposes. This will ensure the scanned documents will comply with the California Rules of Court, AIIM guidelines, and National Archives and Records Administration (NARA) standards.
- Care and consideration should be given with regard to "hidden" data and metadata when exporting electronic files for use outside of the court. This data may contain identifiers or information that would not be appropriate for disclosure (e.g., working notes from the judicial officer hearing a case, or personal identifiers such as birth dates).
- If electronic records are stored with Optical Character Recognition (OCR) metadata contained in the file (e.g., to facilitate text searches), the metadata should be contained "behind" the image of the document. The original image of the document should be preserved and should not be replaced with information resulting from OCR.
- There may be variations in the level of quality of existing digital images that were created using older technologies (e.g., microfilmed documents at 200 dpi). Courts may wish to

certify these records by stamping them "Correct Copy of the Original" or "Best Available Image" when requested to produce a copy from electronic storage. Required file formats include multiple-page TIFF Group 4, standard PDF, PDF/A-C, and searchable PDF format.

### B. Color Palettes

A color palette describes the type and number of colors used when converting a scanned document or image to electronic format.

There are three primary color palettes that can be used when scanning documents:

1. Black and white—everything contained in the original document is converted to one of these two colors.
2. Grayscale—document and image contents are converted to black, white, or shades of gray. Typically, up to 65,536 levels of gray are available.
3. Color—all colors of the original document or image are retained in the electronic version.

When choosing a specific color palette for electronic records, courts should consider the following characteristics:

1. File size—file size will vary depending upon the color palette selected. Documents scanned as grayscale and color are about two to three times larger than those scanned as black and white.
2. Clarity—while all color palettes will represent black and white text-only documents well, documents that contain handwriting, images, or carbon copies will vary in clarity depending upon the color palette used.
3. Accuracy—when an exact copy of an image is required, the color palette that best represents the original should be used.

The chart below summarizes these characteristics:

| Palette | File Size | Clarity | Accuracy | Best for |
|---|---|---|---|---|
| Black and White | Small | Fair | Fair | • Black and white text-only documents<br>• Black and white text-only documents with simple tables |
| Grayscale | Large | Good | Good | • Documents that contain a wet signature or fingerprint<br>• Carbon copy documents<br>• Documents printed on colored paper |
| Color | Large | Good | Excellent | • Images and content that contain color |

***Recommended:***

For simple documents consisting of plain text on a white background, a black and white palette is recommended. For all other documents, a grayscale color palette is recommended. Although resulting file sizes may be two to three times larger than for black and white scanning, the size differences may not be significant, particularly when balanced against the improvements in image quality, readability, and searching capacity that grayscale offers. Particularly, when it is important to capture a wet signature, fingerprint, graphics, or other nontext content, grayscale may be the best option.

***Not Recommended:***

- *Color images:* Color images may be large and usually are unnecessary when imaging the majority of court documents. Although the resulting size of a document captured as color is about the same as a document captured as grayscale, printing an electronic color document requires a color printer for best results. The exception would be where an exact copy of an image is required and accuracy dictates use of a color palette (e.g., visual aids such as charts, graphs, and photos that are difficult to analyze without color).
- *Compressed formats*: Smaller file sizes can be achieved through the use of compression. Caution must be exercised, however, because the quality and readability of the scan may be significantly compromised. To ensure maximum clarity and accuracy, the best practice is to use an uncompressed format or a format that employs lossless compression. If compression is used, care must be taken to ensure there are no visible artifacts or text distortion.

### C. Quality Assurance

In order to realize all the anticipated benefits of scanning and imaging records, it is imperative to ensure the quality of the imaged records. This is a two-step process:

1. Initial data validations should be performed at multiple points during the document capture process (i.e., at indexing time).
2. Secondary inspections should be performed after document capture.

At multiple points during the initial scanning and imaging (or capture) process—and again, after the process is completed—the following attributes must be inspected:

- Image quality;
- Index accuracy; and
- Record completeness.

### *During the Initial Capture Process*

*Image Quality*

The scanned image must be legible to the human eye (i.e., readable). Defects—such as speckling, skewing, streaking, poor contrast, folded pages, and tears—are acceptable if the document is legible. A fold or crease that does not block text is acceptable. If any text is illegible, however, the scanned record is not acceptable. There is software available to correct image quality problems during document capture.

For best results, every page of a scanned document should be reviewed. Barring that level of review, at least the first, middle, and last pages should be reviewed. This lesser level of review works on the principle that many image quality problems are related to the scanning process and cause the same defect on every page. Note that this may not catch page-level defects caused by folded corners, colored paper, or unclear original copies of triplicate images (i.e., No Carbon Required (NCR) paper). To avoid unnecessary rescanning, extremely poor-quality originals that cannot be corrected or enhanced could be stamped "Best Available Image."

*Index Accuracy*

While some index fields are critical for locating documents, other fields provide additional information but are not necessarily critical. There are multiple methods for ensuring the accuracy of critical index values.

1. Character-Level Validations—Individual characters can be validated through the use of character filters, which prevent the entry of invalid characters. For example, a phone number field would not allow entry of alphabetic characters. This type of validation should be real time without slowing the user down. Invalid keystrokes should be blocked as they are typed rather than waiting to validate the data when saving the document or after moving to the next field to be entered.
2. Field-Level Validation—Field-level edits can help catch errors as soon as the field is completed. Examples include minimum and maximum values, minimum and maximum number of characters, and date range checks. Values may be selected from drop-down lists when applicable or compared against lists of valid values prior to saving the data. Check digits or other types of calculation validations are useful when applicable.
3. Record-Level Validation—Some data cannot be validated until all fields have been entered and the user is ready to save the data. For example, if names are optional but a first name is entered, the last name must also be entered. Any messages displayed should be as clear as possible to make it easy for the indexer to make corrections. Results of record-level validation must be displayed as quickly as possible to avoid negatively impacting throughput.
4. Double Key Entry—For critical index data, the most effective way to ensure accuracy of key-entered data is to key it twice and programmatically compare the results. If the values do not match, they must be reentered. Blind double-key entry requires the key entry to be

performed by two different people. This increases the likelihood of accuracy because it is less likely two different people will make the same typographical errors.

5. External Validation—If authoritative data is stored in an external system such as a case management system, that system can be queried to validate or populate index data. Integration effort and speed of access to data residing in the external system must be considered to ensure that overall processing time is acceptable.

Some courts may generate index information by creating bar code cover sheets from the case management system. In this situation, any of the five previous approaches can be used as appropriate. However, validation that the document is associated with the correct case will vary depending upon the specific imaging, quality assurance, and case management technologies used.

*Record Completeness*

The most effective way to ensure a record is complete is to count pages before scanning and then to have the software compare the human count to the machine count. There are two ways to count the pages:

- Pre-blank page removal; and
- Post-blank page removal.

The pre-blank page removal count is the count of physical pages in the batch, including document separator sheets. It is independent of whether the pages are duplex or simplex. The post-blank page removal count is the count of actual images after programmatically removing blank pages and separator sheets. This count is much more cumbersome to obtain since the user must examine the front and back of every page and track.

Whichever counting method is applied, there are three possible outcomes to the comparison:

1. The counts match;
2. The machine count is higher; or
3. The machine count is lower.

If the counts match, the batch can be accepted with a high degree of certainty that the records are complete.

If the machine count is higher, it is likely that the human undercounted because it is unlikely that a page was captured twice. To increase certainty, the batch could be rescanned to see if the machine count remains the same.

If the machine count is lower, it is possible that the scanner double-fed two or more pages or that the human count was too high. In this case the batch should be recounted and rescanned.

Note that the pre-blank page removal counts could match while the software could remove a page that is not technically blank, causing the document to be incomplete. In order to maximize the level of certainty that all records are complete, both counts should be performed and compared.

***After the Capture Process***

Even if all the above steps are taken to ensure record quality during the initial capture process, random records should be examined after the capture process is completed. The same attributes—image quality, index accuracy, and record completeness—should be examined again. Defects should be corrected to the extent possible. If the original source records have been destroyed, then poor images cannot be rescanned. They can, however, be modified electronically to remove blank pages, or combined or split to accommodate for missing document separator sheets. Incorrect index data should be corrected.

The sampling plan is based on the desired Acceptance Quality Limit (AQL). There are a number of publications detailing acceptable sampling procedures, including American National Standards Institute/American Society of Quality (ANSI/ASQ) standard Z1.4.

#### 6.1.3.4 Public access and reproduction

Like other court records, a court's electronic records must be accessible to the public and must be reproduceable with at least the same amount of convenience as paper records previously provided. (Gov. Code, § 68150(c).) This means the records must be indexed. (*Id.*, § 68150(e).) The public must be able to retrieve and view a court's electronic records. Computer or web-based technology will be required to allow the public to do so. Courts will also need to provide a means for members of the public to copy or otherwise reproduce such records. A member of the public requesting to view and duplicate on the premises of the court a record that is accessible to the public shall be allowed to use the requester's equipment on those premises, without being charged any fees or costs, to photograph or otherwise copy or reproduce the record in a manner that does not require the equipment to make physical contact with the record, with specified exceptions. (*Id.*, § 68150(*l*).)

**A. Best Practices**

- Implement systems and procedures to ensure that the court's electronic records are easily accessible by the public both onsite (within court facilities) and remotely (offsite or away from court facilities) using computer or web-based technology, complying with the rules of court regarding public access. (See Cal. Rules of Court, rule 2.500 et seq.)
- Ensure that the court's electronic records are reproducible by the public within court facilities by providing the public with access to computer printers or printing services.
- Implement court case management systems and web-based services that together provide prompt public access to newly received or updated electronic records.

**B. Examples**

- Implement self-service kiosks in court lobbies or other publicly accessible areas, equipped with hardened (secure) personal computers and printers, allowing the public to access and reproduce electronic court records.
- Implement news media kiosks, webpages, or drop boxes to enable prompt media access to newly filed or recently updated electronic court records.

#### 6.1.3.5 Confidential and sealed records

Electronic court records are the same as other court records. Statutory and rule provisions addressing confidentiality and sealing of court records apply equally to paper records and to electronic records. (See section 10.3, "Confidential and Sealed Records," and Appendix 1, "Court Records Designated Confidential by Statute or Rule.") The form of the records, however, may change the manner of controlling access to those records. While the confidentiality of paper records may be protected by restricting physical access, for example, the confidentiality of records in the form of electronic documents or data must be protected using technological means.

**A. Best Practices**

- Control and monitor physical access to buildings, rooms, and equipment where electronic court records are stored.
- Establish logical access controls, limiting connections to computer networks and systems, where electronic court records are stored.
- Implement court case management, network, and web-based systems that together provide reliable measures for ensuring confidentiality and sealing of selected information stored in electronic court records.
- Implement technology systems that allow incremental, controlled access to individual pieces of information contained in electronic court records to protect any confidential or sealed pieces of information.
- Ensure that any technological means used to protect confidentiality, or to redact or seal electronic court records, function equally and consistently both for onsite access (within court facilities), and for remote access (offsite or away from court facilities using web-based technology).
- Establish procedures for addressing circumstances in which the status of specific court records changes, either from public to confidential or sealed, or the reverse.

**B. Examples**

- Ensure that the physical access to office areas housing court technology systems is restricted and controlled by means such as:

    - Access badges;
    - Key locks;
    - Cipher locks;
    - Access logs; and
    - Security cameras.

- Ensure that all court computers, servers, and network equipment are secured with password protection, and screen or console "locks" when not in use.
- Use PKI (public key infrastructure) encryption technologies for external transmission of sensitive electronic court records to preserve confidentiality.
- Ensure that any computer equipment located in publicly accessible areas of the court (such as self-help kiosks) is "hardened" (secured) via enhanced security measures such as:
    - Kiosk software, which tightly restricts what can and cannot be done on a computer;
    - Restrictive network or centralized management and operating systems configuration (for example, Windows Group Policy) security settings; and
    - Physically or logically separating such equipment from all other court systems.
- Implement network security systems to protect against unauthorized access (e.g., by hackers) at publicly accessible self-help locations, and through external connections such as the public internet.

#### 6.1.3.6 Integrity and security of records

Electronic court records must be created and maintained in a manner that ensures accuracy and preserves the integrity of the records throughout their maintenance. (Gov. Code, § 68150(c).) These records must be stored in a manner and place that reasonably ensures their preservation against loss, theft, defacement, or destruction for the prescribed retention period. (*Id.*, § 68150(h).)

**A. Best Practices**

- Protect the integrity of electronic court records, protect the systems on which the records are kept, and prevent unauthorized alteration or destruction of the records, by limiting access to them.
- Provide security and certainty by using identity verification or digital signature (encryption) technologies to confirm the origin, history, and integrity of electronic court records.
- Develop and implement audit trails to detect and record attempts to access, delete, or destroy an electronic court record, verify compliance with prescribed security procedures, and determine whether unauthorized acts have occurred or were attempted.

**B. Examples**

- Implement network and application-level security using role-based user profiles, unique individual sign-ons, and stringent password protection, including multifactor authentication.
- Implement network security systems such as firewalls, proxy gateways, content filters, and virus protection suites, along with network activity monitoring and logging.
- Use PKI encryption utilities to protect confidential electronic court records during external transmission.

- Use identity management systems for identifying, authenticating, and authorizing access privileges for selected individuals, groups, or entities (such as other California courts, justice partners, and attorney services or legal support firms).

#### 6.1.3.7 Technology refresh

Procedures for technology monitoring and refresh should ensure that existing electronic records are retrievable and viewable in the future.

This section is divided into three parts. The first part focuses on the suggested refresh cycle and update procedures for scanning and storage hardware. The second part focuses on update procedures for scanning software. The third part identifies industry standards organizations that should be monitored.

**A. Scanning and Storage Hardware**

Most document imaging solutions have three main hardware components: the scanner; the scanning workstation; and the document repository. Each plays a vital role in the overall process and performance of the scanning solution. Most courts have hardware refresh cycles that they follow. These may be sufficient. The industry standard for replacement of scanning and imaging hardware is between five and seven years. (AIIM.org, 2011.) If a court's hardware replacement cycle policy meets these guidelines, then the document imaging solution can simply be included in the court's existing processes. If the court's policy does not meet these guidelines, then the court may need to establish a different process for specifically refreshing the hardware components of the document imaging solution.

Since the document imaging solution typically resides on one or more personal computers or servers, the court should follow the manufacturer's guidelines for driver updates and patches. It is not recommended that new drivers or patches be applied as soon as they are released, unless there is a specific problem or issue that the driver or patch is expected to solve. All patches and drivers should be tested in a separate environment before being applied to the production environment if possible.

**B. Scanning Software**

The document imaging solution may be all inclusive (both Odyssey and eCourt CMS have scanning software as part of their system) or it may rely on other software, such as a relational database management system. Regardless of the requirements of each court's individual document imaging solution, there are some best practices and general guidelines that should be followed.

The underlying operating system should always be patched and protected from viruses and malware. This can be accomplished by applying system updates and patches once they are tested and determined to be stable. Each court may have a policy or procedure on how and when system patches are applied, and these may meet or exceed industry guidelines. Courts should

follow a process that best protects the operating system, meets the court's specific business requirements, and complies with the judicial branch information security framework.

The specific document imaging software (e.g., scanning software, document management software) will also have periodic patches and updates. It is recommended that these be installed based on the software manufacturer's recommendations only after being applied to a test or staging environment first to ensure that existing functionality performs as expected and the impact of the patch and update is fully understood.

### C. Industry Standards Organizations

There are two primary organizations that help shape the document management industry: the Association for Information and Image Management (AIIM); and Association of Records Managers and Administrators (ARMA). Both associations offer insight and guidance for document management.

The recommendations and publications from these two organizations should be monitored and courts should consider new technologies or guidelines at least once a year.

#### 6.1.3.8 Data backup and storage

The electronic copy of a court record may be the only copy that exists. Therefore, preservation of that electronic information is critical. Storage of the primary copy of an electronic record should be reliable. Duplicate copies should be stored in different locations in case of a disaster. In addition to backup and storage, courts should ensure that all electronically stored data can be retrieved today and in the future.

### A. Storage Media and Locations

Courts typically store their electronic records on magnetic disk, optical disc, or magnetic tape. Additionally, some courts may use solid-state storage or cloud storage. Each type of media varies in the speed of access, capacity, and durability. Courts should not rely on a single type of storage media but instead use a combination of media focused on a specific purpose. The following chart provides some general characteristics and suggested usage:

| Media Type | Speed | Capacity | Durability | Usage |
|---|---|---|---|---|
| Magnetic Disk (e.g., hard disk drives) | Very Fast | Medium | Low | Primary storage and access to frequently used data. |
| Solid-State Drive | Extremely Fast | Medium | Low | Used in place of magnetic disks when high performance or high data transfer rates are required. |

| Media Type | Speed | Capacity | Durability | Usage |
|---|---|---|---|---|
| Flash Media (e.g., USB or thumb drives) | Fast | Low | Low | Used when portability between systems is needed. This format has the highest risk of data loss or compromise. |
| Optical Disc (e.g., CD, DVD, Blu-ray drives) | Fast | Low | High | Secondary storage and access to occasionally used data. |
| Magnetic Tape | Slow | High | Medium | Long-term backup. Only used for data recovery purposes. |

There is a potential challenge for court records in the form of data. The challenge arises because digital court records can be completely self-contained as a single file or record in a database, or can exist as multiple files created and stored in different formats that the case management system combines and presents as a single record. For example, a case management system might store information about a case in text format within a SQL (Structured Query Language) database, but it might store document images of filings associated with the case in a separate document management system. In such cases, it is crucial to ensure that all necessary information related to a case can be "bundled" together for archiving or transmitting, and then restored or reassembled when needed.

Additionally, it is worth noting that some courts may store electronic records (1) at a location controlled by a vendor (for example, a "vendor hosted" case management Software as a Service (SaaS) solution); or (2) over a secure internet connection using a cloud computing service.

When using a storage option that places electronic court records outside the direct physical control of the court, a court should take care to ensure that key staff have a complete understanding of the technology platform and process being used to save and store the records. Specific and clear contractual obligations also must be established between the court and the vendor or service provider protecting the continued security, confidentiality, and accessibility of the court records over time.

### B. Backup and Redundancy

Data backup provides a long-term storage solution for data recovery in the case of a major disaster or catastrophe. Backup copies of all electronic court records can be made on various storage media based on an individual court's business requirements and resources. Copies should be distributed and stored in different locations to protect them against potential disasters such as fire or flood. A data backup is usually performed daily. Recovery from a data backup will likely result in some data loss between the time the backup was made and the time of disaster.

Data redundancy provides a short-term storage solution for data recovery in the case of an immediate system failure or power outage. Data redundancy requires that all electronic

information is immediately stored twice—typically on magnetic media located in different physical locations. Since all data is immediately copied to a separate system, there is typically no data loss when the primary system fails. However, this solution is costly since it requires a full duplicate of the production system and the data must be synchronized between the two systems to ensure that changes made to the primary system are also made to the duplicate system.

### C. Long-Term Accessibility

To ensure long-term accessibility of electronic court data, courts should review their data storage technology periodically, at least every three to five years, to ensure that stored data can be retrieved. For example, ensure that technology exists to read backup tapes that have been placed into long-term storage and that optical discs that have been archived can be read by current optical readers.

If possible, courts should occasionally also take a random sample of backups that have been made and actually try to access the data using current technology to ensure that the backup is still accessible and contains valid information.

Courts should anticipate that storage and retrieval technology will continue to evolve and that new formats and standards will be created. Consequently, all electronic records may at some point need to be migrated from existing technology platforms to new technology platforms.

When selecting a data backup and storage solution, both overall cost and technology longevity must be considered and balanced. As technology ages, it becomes more difficult to retrieve data from storage devices as storage formats and connectivity standards evolve. For example, site data replication to a remote storage area network is likely to be more easily and reliably accessed in the long-term but the initial implementation costs and ongoing network costs must also be considered. Magnetic tape on the other hand typically has a lower initial cost but tape storage formats and mechanisms tend to change faster.

**Selecting a Solution**

**Recommended:**

1. Electronic records should be copied to magnetic tape or other medium daily for data backup and stored in an offsite storage location.
2. Physical records should not be destroyed until a backup of the electronic copy of the records is made and confirmed to be retrievable.

**Alternatives:**

1. Optical storage can be used as secondary storage for infrequently accessed information.
2. Both onsite and offsite data redundancy and replication can be implemented if resources are available to add an extra level of data protection in case of a short-term service disruption.

**Not Recommended:**

1. Proprietary solutions that are only supported by a single vendor may jeopardize the ability to retrieve the electronic records in the future.

#### 6.1.3.9 Retention and destruction

Electronic records should be retained per Government Code section 68152 and destroyed per section 68153. For more information on records retention and destruction, see section 11.1 et seq., "Retention, Preservation, and Destruction of Court Records."

Individual court records retention procedures should include the retention and destruction of electronic case management records, electronic documents, and physical case files.

The electronic repository of court records should be managed with the same focus as the physical records retention requirements have been managed. For example, if records are eligible for destruction, but an index is required, the case index would be preserved and the electronic case file would be deleted, just as the physical paper would be destroyed. (See Gov. Code, §§ 68150(e) ["Court records shall be indexed for convenient access"], 69842 [separate case indexes shall be maintained for civil and criminal cases, listing party names and case numbers].) When destroying records, a court must note the date of destruction either in the case index or on a separate destruction index. (*Id*., § 68153(b).)



Each individual court should determine how long they wish to retain the original physical document after it has been converted to electronic format. Minimally, a court should not destroy the original physical document until the electronic copy of the document has been verified as a true image, copied to a backup, and that the backup has been validated.

Courts can save physical space, electronic storage, and management effort by destroying documents and electronic records as soon as feasibly possible.

#### 6.1.3.10 References

U.S. National Archives and Records Administration (transfer requirements regarding PDF documents containing OCR), *archives.gov/records-mgmt/initiatives/pdf-records.html*

California Secretary of State, "Trustworthy Electronic Document or Record Preservation" (Cal. Code Regs., tit. 2, § 22620.1 et seq.), *sos.ca.gov/administration/regulations/current-regulations/technology/trustworthy-electronic-document-or-record-preservation/*

AIIM ARP1-2009, *Recommended Practice: Analysis, Selection, and Implementation of Electronic Document Management Systems (EDMS)*, *archives.cdn.sos.ca.gov/pdf/er-aiim-arp1-2009.pdf*; Rule 1.44 of the California Rules of Court (Electronically produced forms), *courts.ca.gov/cms/rules/index/one/rule1_44*

Rule 2.104 of the California Rules of Court (Font size; printing), *courts.ca.gov/cms/rules/index.cfm?title=two&linkid=rule2_104*

Rule 2.105 of the California Rules of Court (Font style), *courts.ca.gov/cms/rules/index/two/rule2_105*

Federal judiciary transitioning to PDF/A, *pacer.uscourts.gov/help/faqs/file-a-case*

National Institute of Standards and Technology/Library of Congress, Optical Disc Longevity Study, *loc.gov/preservation/resources/rt/NIST_LC_OpticalDiscLongevity.pdf*

## 6.2 Electronic Signatures: Standards and Guidelines

### 6.2.1 Electronic signatures on court-created records

**A. Purpose**

This section provides standards and guidelines for the creation of electronic signatures by judicial officers and the superior courts. These standards and guidelines implement Government Code section 68150(g), which provides that any notice, order, judgment, decree, decision, ruling, opinion, memorandum, warrant, certificate of service, writ, subpoena, or other legal process, or similar document issued by a superior court or a judicial officer of a superior court may be signed, subscribed, or verified using computer or other technology in accordance with procedures, standards, and guidelines established by the Judicial Council.

The following principles guided the drafters in preparing these standards and guidelines:

- Electronic signature standards should provide appropriate requirements and should generally not be more restrictive than standards for traditional "wet" signatures.
- Electronic signature standards should consider how the signature is being applied when setting the level of authentication required.
- Electronic signature standards should allow for flexibility in the method of applying and the appearance of the signature.
- Electronic signature standards, wherever possible, should avoid requiring specific proprietary tools. Instead the standards should present attributes of acceptable authentication tools and encourage leveraging security within other business-critical systems.

**B. Definitions**

As used in these standards and guidelines, the following definitions apply:

- ***Electronic*** means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- ***Electronic court record*** means a court record created, generated, sent, communicated, received, or stored by electronic means.

- ***Electronic signature*** means an electronic sound, symbol, or process attached to or logically associated with an electronic court record and executed or adopted by a person with the intent to sign the electronic court record. (Code Civ. Proc., § 17(b)(3).)
- ***Person*** includes judicial officers, court clerks, deputy court clerks, and others authorized to sign documents issued by a judicial officer or a court.
- ***Record*** means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- ***Security procedure*** means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

### C. Format of Signatures

Unless otherwise prescribed in a statute or rule, an electronic signature may be in the form of:

- A digitized image of the person's signature;
- An "/s/" followed by the person's name; or
- Any other electronically created method of indicating with clarity the name of the person whose signature is being affixed to the document.

All such signatures, to be legally effective, must satisfy the requirements stated in this section.

### D. Electronic Signatures Must Be Executed or Adopted With an Intent to Sign, Attributable to an Authorized Person, and Capable of Verification

The following guidelines apply to electronic signatures executed or adopted by a judicial officer or the court:

- When a person is presented with the opportunity to sign a document electronically, it must be clear to the person that he or she is being asked to sign the document electronically. This demonstrates that the person in fact intended to sign the document. (See Code Civ. Proc., § 17(b)(3) [electronic signatures must be "executed or adopted by a person with the intent to sign"].)
- When a document is to be signed electronically, it must be presented only to an authorized person or to someone authorized to execute the signature on the person's behalf.
- An electronic signature is attributed to a person if it was the act of that person (or the act of someone authorized to execute or adopt the signature on that person's behalf), which may be shown in any manner, including by showing the efficacy of any security procedure applied when the signature was executed or adopted.
- The identity of the person who executed or adopted the electronic signature must be capable of verification. If a document is signed electronically, the court should retain any

data relevant to verifying the signature, such as the identity of the person who executed or adopted the signature and the date and time that the signature was executed or adopted.

Courts should consider designing business practices and technology systems—such as workflows, pop-up screens, and access and security procedures—to facilitate compliance with these guidelines.

Courts may want to consider utilizing different electronic signatures depending on whether the electronic signature is executed and adopted by a person or by someone authorized to execute and adopt the signature on that person's behalf. For example, if a clerk is authorized to sign on behalf of a judge, the clerk's initials could be placed after the judge's signature. Utilizing different signatures depending on the identity of the signer would make it easier to distinguish who actually executed or adopted the signature from the face of the document. Regardless, the court would still retain any data relevant to identifying the person who executed or adopted the signature for verification purposes.

In deciding what types of verification data should be retained, courts may want to consider saving (1) the owner/user ID and timestamp (date and time) generated when a document is prepared, changed, or acted upon; and (2) the owner/user ID and timestamp (date and time) when the signer logs into an application, if the electronic signature is executed using an application.

### E. Signatures Under Penalty of Perjury

If a law requires that a statement be signed under penalty of perjury, the requirement is satisfied with respect to an electronic signature if an electronic record includes:

- The electronic signature;
- All of the information as to which the declaration pertains; and
- A declaration under penalty of perjury by the person who submits the electronic signature that the information is true and correct.

### F. Legal Effect

Unless otherwise specifically provided by law, all notices, orders, judgments, decrees, decisions, rulings, opinions, memoranda, warrants, certificates of service, writs, subpoenas, or other legal process, or similar documents that are signed, subscribed, or verified by computer or other technological means shall have the same validity, and the same legal force and effect, as paper documents signed, subscribed, or verified by a court official or judicial officer. (Gov. Code, § 68150(g); see Code Civ. Proc., § 34 ["An electronic signature … by a court or judicial officer shall be as effective as an original signature"].)

A signature may not be denied legal effect or enforceability solely because it is in electronic form. The legal effect of an electronic signature is determined from the context and

circumstances surrounding its creation, execution, or adoption, and otherwise as provided by law.

### G. Acceptable Security Procedures for Verification of Identity When Applying Electronic Signature

The acceptable procedures for verifying the identity of persons executing electronic signatures are varied and are subject to change as the technology in this area is developing quickly. Certain guidelines can be applied at this time to determine whether electronic signatures are verifiable.

First, all systems used in the capture, application, and storage of electronic media, including any electronic signatures or electronic documents, should align, to the extent possible, with the data and information security guidelines recommended in *Information Systems Controls Framework*. This ensures that access to any electronic signature, any electronically signed document, and the tools and mechanisms for applying an electronic signature is limited to authorized individuals and that original files and documents have not been altered or modified since they were created.

Second, currently acceptable procedures for verification of electronic signatures include the following:

#### 1. Real-time digitized electronic signatures

A digitized signature is a graphical image of a handwritten signature. The signature is captured by means of a digital pen, pad, or other device that converts the physical act of signing into a digital representation of the signature and applies that digital representation to the document, transaction, or database entry.

User authentication before the application of the digitized signature should be similar to authentication methods used when a physical handwritten signature is applied to a hard copy or traditional paper document.

#### 2. System-applied electronic signatures

A system-applied electronic signature is an electronic signature that is applied to a document, transaction, or database using a computer, software, or application following affirmative action by the individual or by a person authorized to act on the individual's behalf. An example of an affirmative action could include, for example, a requirement that a signer click on an "OK" box.

User authentication permitting a system-applied electronic signature may be obtained through one of the following methods:

- ***Password or PIN***—User identity is verified by entering a password or PIN either to gain access to the computer application, database, or network, or to apply a signature, or both.

- ***Symmetric Cryptography***—User identity is verified using a cryptographic key known to the system and to the individual who is signing the document. This is often done by entering a single-use password that is randomly generated.
- ***Asymmetric Cryptography (Digital Certificates)***—User identity is verified using both private and public keys. This is the most secure method of verifying a user's identity and should be considered for signatures made under penalty of perjury.
- ***Biometrics***—User identity is verified using biometrics, including but not limited to voice, fingerprint, or retina.

The method selected should take into consideration business requirements, cost, and the relative risks and consequences of a breach. Courts should document and adopt security procedures for authentication before implementing a system-applied electronic signature.

### H. Judicial Signatures on Scanned Documents

Government Code section 68150(a) authorizes the preservation and maintenance of trial court records in electronic form. Under this provision, trial courts may convert their paper records to electronic form by scanning them to create digital images. The act of scanning an original signature results in a digitized signature. The digitized signature of a court or judicial officer created by scanning shall have the same validity, and the same legal force and effect, as the original signature. (Code Civ. Proc., § 34.)

### I. Examples of Court-Created Documents That May Be Electronically Signed by a Judicial Officer or Clerk

The following is a list of various court-created documents that may be signed electronically by a judge or clerk under Government Code section 68150(g). This list is provided for illustrative purposes only. It is not intended to suggest that a signature is required on these documents, unless a signature is otherwise mandated by statute or rule.

- Judgments
- Deferred entry of judgment
- Orders after hearings
- Minute orders
- Exemplifications of records
- Probable cause determinations
- Arrest warrants
- Search warrants
- Bench warrants
- Protective orders
- Letters for probate
- Writs of attachment
- Writs of possession
- Writs of execution
- Lis pendens
- Abstracts of judgment
- Summonses
- Notices
- Fee waivers granted by statute
- Certificates of mailing
- Clerk's declarations
- Entry of judgment
- Notices of intent to dispose of exhibits
- Certifications of records
- Clerk's certificates of service
- Felony abstracts of judgment
- Notices of cost of electronic recording

### 6.2.2 Electronic signatures on documents submitted to the courts

#### A. Purpose

The purpose of this section is to provide guidance on the signatures that appear on documents that are electronically submitted to courts. There is no single statutory authorization for the use of electronic signatures in this context, similar to that which exists for the signatures of judicial officers and court clerks under Government Code section 68150(g) and Code of Civil Procedure section 34. There are, however, various statutes and rules on signatures on electronically submitted documents that apply to particular types of proceedings.

#### B. Signatures on Documents Filed Electronically in Civil Cases

The statutes and rules on e-filing in civil cases include specific provisions on signatures. Code of Civil Procedure section 1010.6(e)(2) provides:

> (A) When a document to be filed requires the signature of any person, not under penalty of perjury, the document shall be deemed to have been signed by the person who filed the document electronically.
>
> (B) When a document to be filed requires the signature, under penalty of perjury, of any person, the document shall be deemed to have been signed by that person if filed electronically and if either of the following conditions is satisfied:
>
> (i) The person has signed a printed form of the document before, or on the same day as, the date of filing. The attorney or other person filing the document represents, by the act of filing, that the declarant has complied with this section. The attorney or other person filing the document shall maintain the printed form of the document bearing the original signature until final disposition of the case, as defined in subdivision (c) of Section 68151 of the Government Code, and make it available for review and copying upon the request of the court or any party to the action or proceeding in which it is filed.
>
> (ii) The person has signed the document using a computer or other technology pursuant to the procedure set forth in a rule of court adopted by the Judicial Council by January 1, 2019.

Similarly, the California Rules of Court specifically address the requirement for signatures on documents that are filed electronically with the court. As relevant here, rule 2.257 provides:

> **(b) Documents signed under penalty of perjury**
>
> When a document to be filed electronically provides for a signature under penalty of perjury of any person, the document is deemed to have been signed by that person if filed electronically provided that either of the following conditions is satisfied:

(1) The declarant has signed the document using an electronic signature[8] and declares under penalty of perjury under the laws of the state of California that the information submitted is true and correct. If the declarant is not the electronic filer, the electronic signature must be unique to the declarant, capable of verification, under the sole control of the declarant, and linked to data in such a manner that if the data are changed, the electronic signature is invalidated; or

(2) The declarant, before filing, has physically signed a printed form of the document. By electronically filing the document, the electronic filer certifies that the original, signed document is available for inspection and copying at the request of the court or any other party. In the event this second method of submitting documents electronically under penalty of perjury is used, the following conditions apply:

(A) At any time after the electronic version of the document is filed, any party may serve a demand for production of the original signed document. The demand must be served on all other parties but need not be filed with the court.

(B) Within five days of service of the demand under (A), the party or other person on whom the demand is made must make the original signed document available for inspection and copying by all other parties.

(C) At any time after the electronic version of the document is filed, the court may order the filing party or other person to produce the original signed document in court for inspection and copying by the court. The order must specify the date, time, and place for the production and must be served on all parties.

(D) Notwithstanding (A)–(C), local child support agencies may maintain original, signed pleadings by way of an electronic copy in the statewide automated child support system and must maintain them only for the period of time stated in Government Code section 68152(a). If the local child support agency maintains an electronic copy of the original, signed pleading in the statewide automated child support system, it may destroy the paper original.

**(c) Documents not signed under penalty of perjury**

(1) If a document does not require a signature under penalty of perjury, the document is deemed signed by the party if the document is filed electronically.

(2) When a document to be filed electronically, such as a stipulation, requires the signatures of opposing parties or persons other than the filer not under penalty of perjury, the following procedures apply:

[8] Under rule 2.257(a), "[a]n electronic signature is an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign a document or record created, generated, sent, communicated, received, or stored by electronic means."

(A) The opposing party or other person has signed a printed form of the document before, or on the same day as, the date of the filing. The electronic filer must maintain the original, signed document and must make it available for inspection and copying as provided in (b)(2) of this rule and Code of Civil Procedure section 1010.6. The court and any other party may demand production of the original signed document in the manner provided in (b)(2)(A)–(C). By electronically filing the document, the electronic filer indicates that all parties have signed the document and that the filer has the signed original in his or her possession.

(B) The opposing party or other person has signed the document using an electronic signature and that electronic signature is unique to the person using it, capable of verification, under the sole control of the person using it, and linked to data in such a manner that if the data are changed, the electronic signature is invalidated.

**(d) Digital signature**

A party or other person is not required to use a digital signature on an electronically filed document.

**(e) Judicial signatures**

If a document requires a signature by a court or a judicial officer, the document may be electronically signed in any manner permitted by law.

### C. Signatures on Documents in Criminal and Traffic Cases

In criminal and traffic proceedings, the Legislature has authorized the use of electronic or digital signatures in particular types of matters.

#### 1. Probable cause declarations for warrants for arrest

Penal Code section 817 addresses the procedures to be used when a peace officer submits a declaration of probable cause to obtain an arrest warrant before criminal charges are filed.[9] These warrants are sometimes called *Ramey* warrants, referring to *People v. Ramey* (1976) 16 Cal.3d 263. (*Goodwin v. Superior Court* (2001) 90 Cal.App.4th 215, 218.) Penal Code section 817 requires the peace officer to submit a sworn written statement in support of the warrant of probable cause. (Pen. Code, § 817(b).) Under section 817(d), the following conditions apply:

(1) The declarant shall sign under penalty of perjury his or her declaration in support of the warrant of probable cause for arrest. The declarant's signature shall be in the form of a digital signature or electronic signature if email or computer server is used for transmission to the magistrate. The proposed warrant and all supporting declarations and

[9] Penal Code section 817 does not apply to bench warrants or arrest warrants that are sought via a criminal complaint. (Pen. Code, § 817(a)(2).)

attachments shall be transmitted to the magistrate utilizing facsimile transmission equipment, email, or computer server[;] [and]

(2) The magistrate shall verify that all the pages sent have been received, that all the pages are legible, and that the declarant's signature, digital signature, or electronic signature is genuine.

As an alternative, under Penal Code section 817(c), the magistrate may accept an oral statement made under penalty of perjury and recorded and transcribed. (See *id.*, § 817(c) [the recording and transcript must be certified].)

If the magistrate decides to issue the warrant,[10] under Penal Code section 817(g), he or she shall do all of the following:

(1) Sign the warrant. The magistrate's signature may be in the form of a digital signature or electronic signature if electronic mail or computer server was used for transmission to the magistrate.

(2) Note on the warrant the date and time of the issuance of the warrant.

(3) Transmit via facsimile transmission equipment, email, or computer server the signed warrant to the declarant. The warrant, signed by the magistrate and received by the declarant, shall be deemed to be the original warrant.

**2. Probable cause declarations for search warrants: Penal Code section 1526**

Before issuing a search warrant, a magistrate must take the written and signed affidavit of the person seeking the warrant. (Pen. Code, § 1526(a); *Powelson v. Superior Court* (1970) 9 Cal.App.3d 357, 360–361.) Under Penal Code section 1526(c), the following requirements apply:

(1) The affiant shall sign under penalty of perjury his or her affidavit in support of probable cause for issuance of a search warrant. The affiant's signature may be in the form of a digital signature or electronic signature if electronic mail or computer server is used for transmission to the magistrate.

(2) The magistrate shall verify that all the pages sent have been received, that all the pages are legible, and that the declarant's signature, digital signature, or electronic signature is genuine.

(3) If the magistrate decides to issue the search warrant, he or she shall do both of the following:

[10] The magistrate shall issue a warrant "only if he or she is satisfied after reviewing the declaration that there exists probable cause that the offense described in the declaration has been committed and that the defendant described in the declaration has committed the offense." (Pen. Code, § 817(a)(1).)

(A) Sign the warrant. The magistrate's signature may be in the form of a digital signature or electronic signature if electronic mail or computer server is used for transmission by the magistrate.

(B) Note on the warrant the date and time of the issuance of the warrant.

(4) The magistrate shall transmit via facsimile transmission equipment, electronic mail, or computer server, the signed search warrant to the affiant. The search warrant signed by the magistrate and received by the affiant shall be deemed to be the original warrant. The original warrant and any affidavits or attachments in support thereof shall be returned as provided in [Penal Code] Section 1534.

Alternatively, in lieu of a written affidavit, a "magistrate may take an oral statement under oath if the oath is made under penalty of perjury and recorded and transcribed. The transcribed statement shall be deemed to be an affidavit … . The recording of the sworn oral statement and the transcribed statement shall be certified by the magistrate receiving it and shall be filed with the clerk of the court." (Pen. Code, § 1526(b).) Alternatively, "the sworn oral statement shall be recorded by a certified court reporter and the transcript of the statement shall be certified by the reporter, after which the magistrate receiving it shall certify the transcript which shall be filed with the clerk of the court." (*Ibid*.)

### 3. Electronic signatures on notices to appear

Vehicle Code section 40500 addresses nonfelony traffic violations and requires that the arresting officer prepare in triplicate a written notice to appear in court. (Veh. Code, §§ 40500(a), 40600(a) [similar provisions].) The arresting officer must deliver a copy to the arrested person, and then must file copies with the court, and with the commissioner, chief of police, sheriff, or other superior officer of the arresting officer. (*Id.*, §§ 40500(d), 40506.) A notice to appear may also be issued for nontraffic infraction and misdemeanor offenses. (Pen. Code, §§ 853.5, 853.6.)

Penal Code section 959.1(d)–(f) authorizes a court to receive and file an electronically transmitted notice to appear issued on a form approved by the Judicial Council if the following conditions are met:

(1) The notice to appear is issued and transmitted by a law enforcement agency pursuant to [specified Penal Code or Vehicle Code sections].

(2) The court has all of the following:

(A) The ability to receive the notice to appear in electronic format.

(B) The facility to electronically store an electronic copy and the data elements of the notice to appear for the statutory period of record retention.

(C) The ability to reproduce the electronic copy of the notice to appear and those data elements in printed form upon demand and payment of any costs involved.

(3) The issuing agency has the ability to reproduce the notice to appear in physical form upon demand and payment of any costs involved.

A notice to appear received under Penal Code section 959.1(d) is deemed to have been filed when it has been accepted by the court and is in the form approved by the Judicial Council. (Pen. Code, § 959.1(e).) "If transmitted in electronic form, the notice to appear is deemed to have been signed by the defendant if it includes a digitized facsimile of the defendant's signature on the notice to appear. A notice to appear filed electronically under [section 959.1(d)] need not be subscribed by the citing officer. An electronically submitted notice to appear need not be verified by the citing officer with a declaration under penalty of perjury if the electronic form indicates which parts of the notice are verified by that declaration and the name of the officer making the declaration." (*Id*., § 959.1(f).)

A Judicial Council notice to appear form that is issued when a person is arrested for misdemeanor or infraction violations of the Vehicle Code or for nontraffic misdemeanors or infractions serves as a complaint. (Veh. Code, § 40500(b); Pen. Code, § 853.9(b).) Under rule 4.103 of the California Rules of Court, the Judicial Council has approved the following notice to appear forms:

- *Continuation of Notice to Appear* (form TR-106)
- *Continuation of Citation* (form TR-108)
- *Automated Traffic Enforcement System Notice to Appear* (form TR-115)
- *Nontraffic Notice to Appear* (form TR-120)
- *Traffic/Nontraffic Notice to Appear* (form TR-130)
- *Notice to Correct Violation* (form TR-140)

For more information about these forms, see the Judicial Council's form instructions, in form TR-INST, *Notice to Appear and Related Forms* (instructions), at *courts.ca.gov/sites/default/files/courts/default/2024-11/trinst.pdf*.

### 6.2.3 Signatures on scanned documents

Government Code section 68150(a) authorizes the preservation and maintenance of trial court records in electronic form. Under this provision, trial courts may convert their paper records to electronic form by scanning them to create digital images. The act of scanning an original signature results in a digitized signature. This digitized signature shall have the same validity, and the same legal force and effect, as the original signature. This is true generally for the electronic signatures of parties and others on documents submitted to the courts, and for the electronic signatures of judicial officers and superior courts (addressed above, in sections 6.2.1 and 6.2.2).

### 6.2.4 Electronic transfer of death penalty records

Penal Code sections 1218 and 1193 set forth the process for transmission to the Governor's Office of specified documents in death penalty cases. Recent amendments specify that court

clerks shall transmit the documents electronically, and those documents shall include only (1) a certified copy of the Order of Judgment imposing the death penalty, and (2) the death warrant signed by the court.

In collaboration with the Judicial Council, the Governor's Office has updated the process to facilitate this document transfer. The Governor's Legal Affairs unit has created a dedicated electronic SharePoint folder accessible to court staff and Governor's Office staff that will allow for the secure electronic transfer of these documents. To gain access to the folder or for additional information, please contact govlegalunit@gov.ca.gov.

# 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, which address:

- Scheduling periodic physical inventories of exhibits;
- Handling of dangerous or biohazardous 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 extensions 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, under rule 10.856 of the California Rules of Court.

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

For further guidance, see Appendix 3, "Recommended Methods of Exhibit Disposal."

## 7.1 Exhibits in Civil Cases

Under Code of Civil Procedure section 1952, the court clerk must retain any exhibit introduced or filed in a civil action or proceeding for 60 days following the judgment or the final determination of any appeal. (See also Code Civ. Proc., §§ 1952.2 [procedure for ordering the return of trial exhibits], 1952.3 [procedure for ordering the destruction or disposition of exhibits introduced at trial or at a posttrial hearing, or filed in the action or proceeding; five to ten years].) Code of Civil Procedure section 1952(c) and (d) requires written notice of the order for destruction sent to the parties by first-class mail.

Under Code of Civil Procedure section 1952.3, any exhibit contained in a sealed civil case file must be retained for an additional two years beyond the date that they would have been destroyed had the records not been sealed.

## 7.2 Exhibits in Criminal Cases

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, 1417.3, 1417.5(a) until final determination of the action or proceedings." (Pen. Code, § 1417.) "[T]he exhibits shall thereafter be distributed or disposed of as provided in [Pen. Code, § 1417 et seq.]." (*Id.*, § 1417.)

### 7.2.1 Dangerous and biohazardous exhibits



Courts may adopt local orders or rules that address the custodial responsibilities for managing exhibits that are dangerous or contain biohazardous 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. (See, e.g., Pen. Code, §§ 1417.3, 1417.9; Atty. Gen. of Cal., *Postconviction DNA Testing: Recommendations for Retention, Storage and Disposal of Biological Evidence* (2002), at p. 6 [recommendations for courts unable to properly retain evidence containing biological material].)

#### 7.2.1.1 Exhibits that pose a security, storage, or safety problem (Pen. Code, § 1417.3(a))

The clerk may recommend that the court order the return of exhibits that pose security, storage, or safety problems prior to the final determination of a criminal action or proceeding. (Pen. Code, § 1417.3(a).)

"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." (*Id.*, § 1417.3(a).)

"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." (*Id.*, § 1417.3(a).)

#### 7.2.1.2 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." (Pen. Code, § 1417.3(b).)

"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." (*Id.*, § 1417.3(b).)

#### 7.2.1.3 Dangerous or deadly weapons, narcotics or poisonous drugs, explosives, or any property the possession of which is prohibited by law (Pen. Code, § 1417.6(a)) and biological material for DNA testing (Pen. Code, § 1417.9(a))

Penal Code section 1417.6 addresses the proper disposition of other dangerous exhibits. Section 1417.6 applies to "any dangerous or deadly weapons, narcotic or poisonous drugs, explosives, or any property of any kind or character whatsoever the possession of which is prohibited by law and that was used by a defendant in the commission of the crime of which the defendant was convicted, or with which the defendant was armed or that the defendant had upon his or her person at the time of the defendant's arrest." (Pen. Code, § 1417.6(a).) "Any of this property introduced or filed as an exhibit, by order of the trial court, shall be destroyed or otherwise disposed of under the conditions provided in the order no sooner than 60 days following the final determination of the criminal action or proceeding." (*Ibid.*)

Penal Code section 1417.9 applies to exhibits containing or including biological material. Subdivision (a) directs that, "[n]otwithstanding any other law … , the appropriate governmental entity shall retain any object or material that contains or includes 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. (*Id.*, § 1417.9(a).) The governmental entity may "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." (*Ibid.*; see Atty. Gen. of Cal., *Postconviction DNA Testing: Recommendations for Retention, Storage and Disposal of Biological Evidence* (2002), at p. 7 [recommendations for proper long-term storage of biological evidence].)

Under Penal Code section 1417.9(b), a "governmental entity may dispose of any object or material that contains or includes biological material before the expiration of the period of time described in subdivision (a) [above] if all of the conditions set forth [in subdivision (b)] are met." Notice requirements specified in section 1417.9(b) are "absolute and shall not be waived." (Pen. Code, § 1417.9(c).)

### 7.2.2 Unclaimed exhibits of money or currency or other property, and photographs of minors found to be harmful matter

#### 7.2.2.1 Unclaimed exhibits of money or currency (Pen. Code, §§ 1417.5(c)(4), 1420–1422)

If the party entitled to an exhibit of 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 under Penal Code section 1420. (Pen. Code, § 1417.5(c)(4).)

Under Penal Code section 1420, "[a]ll 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 [publish] a notice pursuant to Penal Code section 1421 … 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." (*Id.*, § 1421.)

"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." (*Id.*, § 1422.)

#### 7.2.2.2 Unclaimed exhibits of other property (Pen. Code, § 1417.5(c)(1)–(3))

If the party entitled to an exhibit that is not 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 procedures specified in section 1417.5(c)(1)–(3) apply. (Pen. Code, § 1417.5(c).)

Under Penal Code section 1417.5(c)(1), unclaimed exhibits "of stolen or embezzled property other than money shall be disposed of pursuant to court order as provided in [Penal Code section] 1417.6." Section 1417.6(a) directs that covered exhibits "shall be, by order of the trial court, destroyed or otherwise disposed of under the conditions provided in the order no sooner than 60 days following the final determination of the criminal action or proceeding."

Under Penal Code section 1417.5(c)(2), unclaimed exhibit of other property—property which does not consist of money or currency, and which was not stolen or embezzled—if it has value, shall … be transferred to the appropriate county agency for sale to the public in the same manner [as] … [a] sale of surplus personal property [conducted pursuant to Government Code section 25500 et seq.]. 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).)

Under Penal Code section 1417.5(c)(3), however, if the court determines that the unclaimed exhibit of other property has "no value at public sale," the exhibit "shall be destroyed or otherwise disposed of pursuant to court order."

#### 7.2.2.3 Exhibits that are photographs of minors found to be harmful matter (Pen. Code, § 1417.8(a))

If a court finds that any photograph of any minor that has been introduced or filed as an exhibit in any criminal proceeding specified in Penal Code section 1417.8(b) "is harmful matter, as

defined in [Penal Code section] 313," the court shall direct that the photograph be handled as specified in Penal Code section 1417.8(a).

Under Penal Code section 1417.8(a)(1), "[p]rior to the final determination of the action or proceeding, the photograph shall be available only to the parties or to a person named in a court order to receive the photograph."

Under Penal Code section 1417.8(a)(2), "[a]fter the final determination of the action or proceeding, the photograph shall be preserved with the permanent record maintained by the clerk of the court.[11] 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."

### 7.2.3 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)(1).) But, if the defendant dies while awaiting execution, exhibits may be destroyed "one year after the date of the defendant's death." (*Id*., § 1417.1(d)(2).)[12]

[11] Unlike some other types of exhibits which may be returned or disposed of during or after final determination of a criminal action or proceeding, the legislative history reflects that section 1417.8 was designed to provide special protection for these photographs by strictly limiting access to them during and after the conclusion of the criminal action or proceeding, while at the same time preserving evidence of child sexual abuse for potential use in future civil litigation in light of the extended statute of limitations in such cases.

[12] For a list of condemned inmates who have died since 1978, see the webpage of the California Department of Corrections and Rehabilitation at *cdcr.ca.gov/capital-punishment/condemned-inmates-who-have-died-since-1978*.

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

Court calendars are lists of cases to be heard on specified dates in specified court departments, prepared for use by the clerk of the court and other courtroom personnel in calling cases in an orderly manner. (See, e.g., Cal. Rules of Court, rule 2.507(b)(1).) They provide the public with the ability to research and locate court events for a particular individual or case 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 cases filed in the court, except confidential case types, and serve as a cross-reference of case names to the case numbers. (Gov. Code, § 69842; Cal. Rules of Court, rule 2.507(b)(2).) Courts are encouraged to create a linkage, preferably automated, between new records entered in case management systems and entries in public indexes. Ideally, an 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. (See, e.g., Cal. Rules of Court, rule 2.507(c) [listing information that "must be excluded from a court's electronic … index"].) Information should never be removed from the index unless there is authority such as a court order or statute directing that information be removed (see Gov. Code, § 6200, 69846). The index must be permanently retained, with the exception of traffic violations, which can be destroyed with the underlying case records. (See Gov. Code, § 68152(g)(14) & (15) and Cal. Rules of Court, rule 10.855(c)(3).) Additionally, indexes may require updating to remove references to cases required by law to be treated as if they never occurred, and all records destroyed or obliterated under, for example, Health and Safety Code section 11361.5 (certain marijuana offenses) or Welfare and Institutions Code section 389(a) or 781 (certain sealed juvenile dependency and juvenile justice cases) or both.

Registers of actions, also known as dockets, may provide "the title of each cause," "the date of its commencement," a chronological list of "every subsequent proceeding in the action with its date," as well as some or all of the documents filed in the court. (Gov. Code, § 69845; see also *id*., § 69845.5 [Alternatively, the court clerk may "preserv[e] all the court records filed, lodged, or maintained in connection with the case"]; Cal. Rules of Court, rule 2.507(b)(3) ["The register of actions must be a summary of every proceeding in a case"].) 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)(1) of the California Rules of Court, a court that maintains its calendars, indexes, and registers of actions "in electronic form must provide [the public] electronic access to them, both remotely and at the courthouse, to the extent it is feasible to do so."

## 8.1 Minimum Content for Electronically Accessible 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 or sealed by court order).

The electronic index must include:

- Case title (unless made confidential by law or sealed by court order);
- Party names (unless made confidential by law or sealed by court order);
- 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 or sealed by court order);
- Party names (unless made confidential by law or sealed by court order);
- Party type;
- Date of each activity; and
- Description of each activity.

## 8.2 Information that Must Be Excluded From Electronically Accessible Court Calendars, Indexes, and Registers of Actions

Under rule 2.507(c) of the California Rules of Court, the following information must be excluded from a court's 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-designed and well-managed recovery plan can expedite the return to normal business operations, allowing access to court records for the court and the general public. Disaster planning, response, and recovery are key components of a comprehensive records management program.[13]

## 9.2 Response to Disasters

Courts are encouraged to take decisive action after a disaster. As soon as it is safe to enter the affected area, the first priority is to assess the scope and nature of the damage to equipment, facilities, and records. It is critical to document the location, type, and 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 there is a prolonged disruption to a court's normal business operations.[14] The COOP can be a helpful guide in prioritizing records recovery efforts.[15] A much different response, but no less urgent, would be called for if a 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 offsite facility. Cloud computing is another alternative.[16] Where feasible, courts may wish to consider digitizing their records, as part of their

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[13] See section 6.1.1, "Standards for paper records storage facilities," on adhering to standards for paper records storage.

[14] To create and maintain COOP and associated emergency plans, courts may use the optional online planning system available at *cacourts.boldplanning.com*. For information about the online planning system, related guidance, and workshops, courts may email the Judicial Council's Emergency Planning and Security Coordination unit at EPSCU@jud.ca.gov.

[15] Additionally, courts may find helpful resources regarding information technology disaster recovery planning on the California Courts website. (See Judicial Council of Cal., Advisory Com. Rep., *Judicial Branch Operations: Disaster Recovery Framework Guide* (Feb. 15, 2018), *jcc.legistar.com/View.ashx?M=F&ID=5810581&GUID=2AC09057-3022-4734-B270-9CC777EF842C*.

[16] See Advisory Com. Rep., *supra*, Attachment A, *Disaster Recovery Framework: Recommendations & Reference Guide* §§ 5 (supported and recommended backup technologies), 6.1 (backup methods).

continuity of operations and information technology disaster recovery planning, to ensure recovery and timely access in the event of a disaster or other emergency.

## 9.3 Disaster Recovery

In the event of a disaster, it is critical 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 (e.g., soaked, burned, or buried), effective salvage operations require coordination and speed. Mitigating and reversing damage becomes more difficult the longer the salvage effort is delayed; for example, records that become damp immediately begin generating mold. The sooner records are freeze-dried the quicker the spread of mold can be stopped.

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 (e.g., microfilm or optical discs) is the next step. If copies of microfilmed and electronic records are stored at an alternate location or in the cloud, any damaged working copies of microfilm or electronic records may be reconstructed from the offsite 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. Records managers must remain aware of the hazards to individuals' health that can result from contact with damaged records. Safety measures must be taken to ensure staff are not inhaling or contacting mold, which is generated on dampened paper records. This includes utilizing N95 masks, gloves, disposable protective clothing, disposable shoe/boot covers, and head protection (hairnets, caps, hoods). It is recommended to keep a ready supply of these items in the event of emergency inspection of damaged records.

After the preliminary analysis and inventory, salvage efforts may begin. The Judicial Council 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.

From a records management perspective, the primary objective of a disaster recovery effort is to salvage active case records 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. (See, e.g., Cal. Rules of Court, rule 10.855.) 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 if 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, contact lists (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

Court records that accurately and officially reflect the work of the court (e.g., court orders and judgments, official minutes, the various documents filed in or received by the court, and the evidence admitted in court proceedings) are presumed to be open and accessible to the public, unless they are confidential as a matter of law or are sealed by court order. Confidential and sealed records are described, below, in section 10.3, "Confidential and Sealed Records."

## 10.1 Access to Electronic Court Records

Rules 2.503–2.507 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. (Cal. Rules of Court, rules 2.500(a), 2.503(a); see also *id*., rule 2.502(3) & (6) [defining "court record" and "electronic record" for the purpose of these rules].) These rules are not intended to give the public a right of access to any electronic record that the public is not otherwise legally entitled to access (*id*., rule 2.500(c)), and they do not create any right of access to records sealed by court order or made confidential by law (*id*., rule 2.503(a)). The rules also do not apply to parties, their attorneys, or other persons or entities that may be entitled to have access to certain court records by statute or rule.[17]

### Courthouse and Remote Access to Electronic Records

Under rule 2.503(a) of the California Rules of Court, "[a]ll electronic records must be made reasonably available to the public in some form, whether in electronic or in paper form, except those that are sealed by court order or made confidential by law." (See also Gov. Code, § 68150(*l*).)

A court that maintains the following records in electronic form must provide the public electronic access to them, both remotely and at the courthouse, to the extent it is feasible to do so: (1) registers of actions (as defined in Gov. Code, § 69845), calendars, and indexes in all cases; and (2) all civil case records except those listed in rule 2.503(c)(1)–(11) of the California Rules of Court. (Cal. Rules of Court, rule 2.503(a)(1), (b).) The minimum contents for court calendars, indexes, and registers of action that are available to the public by electronic means are prescribed by rule. (See *id.*, rule 2.507(b).) The same rule specifies information that must be *excluded* from court calendars, indexes, and registers of action that are available to the public by electronic means; the information to be excluded includes social security numbers, financial information, arrest and search warrant information, victim and witness information, ethnicity,

[17] Effective January 1, 2019, the Judicial Council adopted rules 2.515–2.528 and rules 2.540–2.545 of the California Rules of Court governing remote access to electronic records by other people and entities. Specifically, rules 2.515–2.528 govern remote access to electronic records by a party, a party's designee, a party's attorney, a court-appointed person, an authorized person working in the same legal organization as a party's attorney, and an authorized person working in a qualified legal services project providing brief legal services. (See Cal. Rules of Court, rule 2.515(b).) Rules 2.540–2.545 govern remote access to electronic records by specified government entities. (See *id*., rule 2.540(b) [listing government entities and authorized levels of remote access].)

age, gender, government (i.e., military) identification card numbers, driver's license numbers, and dates of birth. (See *id.*, rule 2.507(c).)

Rule 2.503(c) of the California Rules of Court outlines the records for which the court must provide electronic access at the courthouse, but may not provide public remote access.

## 10.2 Remote 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.

Notwithstanding the general restriction in rule 2.503(c) against providing remote access for the public to electronic records in criminal proceedings, under rule 2.503(e), the presiding judge or a designated judge may order the records of a high-profile criminal case to be posted on the court's website to enable faster and easier access to these records by the media and public. Rule 2.503(e)(1) specifies several factors that judges must consider before taking such action. Additionally, prior to posting, staff should, to the extent feasible, redact any confidential or personal identifying information contained in the court documents. (See Cal. Rules of Court, rule 2.503(e)(2) [recommending, to the extent feasible, redaction of the following information from records to which remote access is granted: "driver license numbers; dates of birth; social security numbers; Criminal Identification and Information numbers and National Crime Information Center numbers; addresses and phone numbers of parties, victims, witnesses, and court personnel; medical or psychiatric information; financial information; account numbers"].) Five days' notice must be provided to the parties and the public before the court makes a determination to provide remote access under this rule. Notice to the public may be accomplished by posting notice on the court's website. (*Id.*, rule 2.503(e)(3).) Once issued, a copy of the order permitting remote access must also be posted on the website and a copy must be sent to the Judicial Council. (*Id.*, rule 2.503(e)(4).)

## 10.3 Confidential and Sealed Records

### 10.3.1 Confidential records

A nonexhaustive list of confidential records that are exempt from the presumption of public disclosure by statute, regulation, rule of court, or case law is provided below.[18] This list is divided into the following court record classifications: criminal; civil; family and juvenile; probate; protective orders; and jury information. As indicated below, some records are confidential by law in all circumstances, while others may be sealed by court order in particular

[18] See also Appendix 1, containing a more complete list of court records that are designated confidential or are eligible to be sealed by statute or rule.

circumstances and then are treated as confidential.[19] Statutes and rules governing the sealing of records are discussed in section 10.3.2., "Sealed Records."

**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 cases and defendants in cases under Penal Code section 190.05. (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 to present a defense based on the defendant's mental or emotional condition are confidential. (Evid. Code, § 1017.) Additionally, documents submitted to a court under Penal Code section 1367 et seq., addressing a defendant's competence before trial or after conviction, are presumptively confidential, except as otherwise provided by law. (Pen. Code, § 1369.5.) Other psychiatric reports prepared at a court's request are presumed open to the public. (See Evid. Code, §§ 730 [report by a court-appointed expert], 1017; Pen. Code, §§ 288.1 [report on sex offender prior to suspension of sentence], 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, under Penal Code section 1203.05, they may be inspected and copied by:
    - Any person, for up to 60 days from the date judgment is pronounced, or probation is granted or, if a report arises out of a previous arrest, from the date the subsequent accusatory pleading is filed until 60 days from the date judgment is pronounced or probation granted;
    - Any person, at any time, under a court order;
    - The general public, if the court on its own motion orders that a report shall be open or its contents disclosed;
    - Any person authorized or required by law to inspect or receive copies of the report;
    - The district attorney of the county at any time; and
    - The subject of the report at any time.
5. *Defendant's Statement of Assets* (form CR-115): This mandatory Judicial Council financial disclosure form may only be inspected or copied as permitted by court order, or by a person

[19] In this section, we treat the two categories the same. In some instances, therefore, records described here as confidential would only qualify as such if a sealing order were entered.

authorized or required by law to inspect or copy it. (See Pen. Code, §§ 1202.4(f)(7), 1203.05(b)–(d).)

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 prosecuting attorney. After disposition of the case, 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(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 not more than two days before the date set for imposition of judgment and sentence. (Pen. Code, § 1191.15(b).) A "court shall not permit any person to duplicate, copy, or reproduce" a victim impact statement. (*Id.*, § 1191.15(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, §§ 11075–11076, 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*, *supra*, 27 Cal.App.4th at p. 160 [private company denied access to municipal court computer database compilation].)

9. Reports concerning prisoners who have mental health disorders: Reports under Penal Code section 4011.6 to evaluate whether prisoners have mental health disorders are confidential. (Pen. Code, § 4011.6.)

10. Criminal cases returned to the juvenile court for disposition: For cases transferred from juvenile court to a court of criminal jurisdiction under Welfare and Institutions Code section 707, in specified circumstances, the criminal court may return the case to juvenile court for disposition. (Welf. & Inst. Code, § 707.5(b).) Where this occurs, the clerk of the criminal court must "deliver to the clerk of the juvenile court all copies of the minor's record in criminal court and shall obliterate the person's name for any index maintained in criminal court." (*Id*., § 707.5(f).) The clerk of the juvenile court shall maintain the criminal court records as if they were juvenile court records until such time as it may issue an order sealing the records. (*Ibid*.)

11. Information concerning dismissal: If a court receives notification from the Department of Justice (DOJ) that a case was dismissed under Penal Code sections 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425, the court shall update its records to reflect the dismissal and shall not

disclose information concerning a conviction that granted relief to any person or entity, in any format except to the person whose conviction was granted relief or a criminal justice agency, as defined in Penal Code section 851.92. (Pen. Code, § 1203.425(a)(3)(D).)

***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(a)(1) 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 in an alleged offense to an arrestee or a potential defendant. (Pen. Code, § 841.5(a).) 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. (*Id.*, § 1534(a).) Thereafter, if the warrant has been executed, the documents and records shall be open to the public as a judicial record. (*Ibid.*) Evidence Code sections 1040–1041 establish exceptions to the public status of executed search warrants; these provisions allow public entities to refuse disclosure of confidential official information and an informant's identity when disclosure is against the public interest. When a search warrant is valid on its face, a public entity bringing a criminal proceeding may establish the search's legality without revealing to the defendant any confidential official information or an informant's identity. (Evid. Code, § 1042(b).) When a search warrant affidavit is fully or partially sealed under Evidence Code sections 1040–1042, the defense may move to quash or traverse the search warrant. The court should conduct an in camera hearing following the procedure established in *People v. Hobbs* (1994) 7 Cal.4th 948.
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 all 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. Federally funded substance use disorder program records: Records of a federally funded program are confidential if they would identify a person as having or having had a substance use disorder, or as being or having been referred for treatment of a substance use disorder. (See 42 C.F.R. §§ 2.2, 2.11, 2.12.) Confidentiality requirements that attach to federal funding

apply broadly to any program of a state or local government unit that receives federal funds that may be spent for a substance use disorder program. (See 42 C.F.R. § 2.12(b)(3)(ii).) If a drug court receives federal funding, therefore, any record that would identify participants as having or having had a substance use disorder, or as being or having been referred for treatment of a substance use disorder, is likely confidential.

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, this includes removal from the permanent case and party index and exclusion from the court's sampling program. (Health & Saf. Code, § 11361.5(a).) This rule is subject to various exceptions, including for offenders under 18 years of age, written transcriptions of oral testimony in court proceedings and published judicial appellate reports, and records related to an offender's civil action against a public entity. (See *id.*, § 11361.5.) Public agencies are prohibited from using information in records subject to destruction, even if they have not yet been destroyed. (*Id.*, § 11361.7(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.) Only "the court and authorized court personnel, any persons authorized by the applicant, and any persons authorized by order of the court" may have access to the application. (*Id*., rule 3.54(a).) No person may reveal any information contained in the application except as authorized by law or order of the court." (*Ibid*.) The order granting a fee waiver, however, is not confidential.

2. Unlawful detainer proceedings: Court records filed in unlawful detainer proceedings are not publicly available, except that the persons specified in Code of Civil Procedure section 1161.2(a)(1)(A)–(E) may have access to limited civil case records (including the court file, index, and register of actions). (Code Civ. Proc., § 1161.2(a).) In addition, access to limited civil records in unlawful detainer proceedings shall be allowed:

   - Except in cases involving residential property based on section 1161a as indicated in the caption of the complaint, to any other person 60 days after the complaint has been filed if the plaintiff prevails in the action within 60 days of filing the complaint, in which case the clerk shall allow access to any court records in the action. If a default or default judgment is set aside more than 60 days after the complaint was filed, section 1161.2 shall apply as if the complaint had been filed on the date the default or default judgment is set aside (*id*., § 1161.2(a)(1)(F));
   - In the case of a complaint involving residential property based on section 1161a as indicated on the caption of the complaint, to any other person, if 60 days have elapsed

since the complaint was filed with the court, and as of that date, judgment against all defendants has been entered for the plaintiff, after a trial. (*Id.*, § 1161.2(a)(1)(G).)[20]

3. Confidential statements of taxpayer's or judgment debtor's Social Security number (forms WG-021, WG-025, and WG-035) in wage garnishment cases: These mandatory Judicial Council forms for use in connection with wage garnishments are confidential.[21]

4. False Claims Act cases: The documents initially filed in cases brought under the False Claims Act (Gov. Code, § 12650 et seq.) (also called "qui tam" actions) are submitted "in camera" and remain under seal for up to 60 days or longer if the court grants an extension. (*Id.*, § 12652(c).) The complaint and other initial papers should be attached to *Confidential Cover Sheet—False Claims Action* (form CM-011). The cover sheet contains a box specifying the date on which the sealing of the initial case records will expire if not extended by court order.

5. Litigants who are participants in California's address confidentiality program (Safe at Home): A person who is an active participant in the address confidentiality program (Gov. Code, § 6205 et seq.) who is a party in a civil proceeding may proceed using a pseudonym (either John Doe, Jane Doe, or Doe) and may exclude or redact from all pleadings and documents filed in the action other identifying characteristics. (Code Civ. Proc., § 367.3(b); see *id.*, § 367.3(a)(1) [defining "identifying characteristics"].) A person electing to proceed using a pseudonym in this context must file with the court and serve upon all other parties a confidential information form that includes the protected person's name and other identifying characteristics being excluded or redacted. The court must keep the confidential information form confidential. (*Id.*, § 367.3(b)(1).) "A party filing a pleading, discovery document, or other document in the action shall exclude or redact any identifying characteristics of the protected person … except for a confidential information form " (*id.*, § 367.3(b)(2)(C)(i)), which the party must file with the court and serve on all other parties, and which the court must keep confidential (*id.*, § 367.3(b)(2)(C)(ii)). See *Confidential Information Form Under Code of Civil Procedure Section 367.3* (form SH-001) for parties who participate in the Safe at Home confidential address program. "The responsibility to exclude or redact identifying characteristics of the protected person from documents filed with the court rests solely with the parties and their attorneys. This section does not require the court to review pleadings or other papers for compliance." (Code Civ. Proc., § 367.3(b)(3).) "The court, on motion of the

[20] Subparagraphs (E) and (F) do not apply if the plaintiff filed the action between March 4, 2020, and September 30, 2021, and the action is based on an alleged default in the payment of rent. Such actions are instead governed by Code of Civil Procedure section 1161.2.5. (Code Civ. Proc., § 1161.2(a)(1)(ii).)

[21] Any Judicial Council form that is now or hereafter labeled or entitled "CONFIDENTIAL" should not be disclosed except as ordered by a judge.

protected person, may order a record or part of a record to be filed under seal" in accordance with rules 2.550 and 2.551 of the California Rules of Court. (*Id.*, § 367.3(b)(4).)

6. Any petition for a change of gender and sex identifier or a petition for change of gender, sex identifier, and name filed by a person under 18 years of age, and any papers associated with the proceeding, shall be kept confidential by the court. Any petition for a change of name or gender and sex identifier, or both, including the index, register of actions, and any other case information available through court systems used to provide the public with electronic access to court records filed on or after July 1, 2026, shall be kept confidential by the court and access to the records shall be restricted while the matter is pending. The court may order that records filed before July 1, 2026, be made confidential if the petitioner files a request for such an order, which may be made ex parte and without a fee (Health & Saf. Code, § 103437.)
7. In a Community Assistance, Recovery, and Empowerment (CARE) Act proceeding, all reports, evaluations, diagnoses, or other information filed with the court related to the respondent's health shall be confidential. The respondent may petition the court for an order sealing these records or any other records in a CARE Act proceeding, and the filing of such a petition creates a presumption in favor of sealing. (Welf. & Inst. Code, § 5976.5.)
8. Confidential information form for doxing cases (Civ. Code, § 1708.89; Code Civ. Proc. § 52): Cause of action against any person who doxes another person with the intent to place another person in reasonable fear for their or their immediate family's safety for the purpose of imminently causing that other person unwanted contact, injury, or harassment by a third party. A plaintiff to proceed under a pseudonym and requires the court to keep the plaintiff's name and excluded or redacted characteristics confidential. (See form MC-125.)

***Records that may be confidential***

1. Records and documents in attachment cases: At the time of filing, a plaintiff filing suit under the Attachment Law (Code Civ. Proc., § 481.010 et seq.) can request that records in the action not be made publicly available. (*Id.*, § 482.050(a).) 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. (*Id.*, § 482.050(a).)

**Confidentiality Provisions Relevant to Both Criminal and Civil Cases**

***Records that are confidential***

1. Records related to services provided for voluntary or involuntary treatment of mental health disorders or developmental disabilities: Under Welfare and Institutions Code section 5328 et seq., records related to services provided in the following contexts and under the following code sections are confidential and can be disclosed only to specified recipients: the State Department of State Hospitals (Welf. & Inst. Code, § 4000 et seq.); the State Department of

Developmental Services (*Id.*, § 4400 et seq.); services provided to persons with developmental disabilities (*Id.*, § 4500 et seq.); involuntary treatment or conservatorship related to a mental health disorder, impairment due to chronic alcoholism, or use of a controlled substance (*Id.*, § 5000 et seq.); voluntary admissions and judicial commitments to mental hospitals (*Id.*, § 6000 et seq.); and admission to county psychiatric hospitals or state hospitals (*Id.*, § 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(d).)

3. Social security numbers and financial account numbers: California Rules of Court, rule 1.201 imposes a duty on the parties and their attorneys to omit or redact certain identifiers from documents filed in the court's public file. This responsibility "rests solely with the parties and their attorneys. The court clerk will not review each pleading or other paper for compliance with this [requirement]." (Cal. Rules of Court, rule 1.201(b).) In an appropriate case, on a showing of good cause, a court may order a party filing a document containing redacted identifiers to also file a *Confidential Reference List of Identifiers* (form MC-120), identifying each item of redacted information and specifying an appropriate reference that uniquely corresponds to it.

4. Special Immigrant Juvenile Findings: In any judicial proceedings in response to a request that the superior court make the findings necessary to support a petition for classification as a special immigrant juvenile, information regarding the child's immigration status that is not otherwise protected by the state confidentiality laws must remain confidential and must be available for inspection only by the court, the child who is the subject of the proceeding, the parties, the attorneys for the parties, the child's counsel, and the child's guardian. (Code Civ. Proc., § 155(c); see also Cal. Rules of Court, rule 5.130 [requests for special immigrant juvenile findings]; *Confidential Request for Special Immigrant Juvenile Findings—Family Law* (form FL-356); *Confidential Response to Request for Special Immigrant Juvenile Findings* (form FL-358).)

***Records that may be confidential***

1. Special Immigrant Juvenile Findings: In any judicial proceedings in response to a request that the superior court make the findings necessary to support a petition for classification as a special immigrant juvenile, records of the proceedings that are not otherwise protected by state confidentiality laws may be sealed using the procedure stated in California Rules of Court, rules 2.550 and 2.551. (Code Civ. Proc., § 155(d); see also Cal. Rules of Court, rule 5.130 [requests for special immigrant juvenile findings]; *Confidential Request for*

*Special Immigrant Juvenile Findings—Family Law* (form FL-356); *Confidential Response to Request for Special Immigrant Juvenile Findings* (form FL-358).)

**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 case files. They 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, 231.) By law, juvenile court case files may be inspected only by specified persons (Welf. & Inst. Code, § 827(a)(1)(A)–(P), (R)–(T)) and "any other person who may be designated by court order of the judge of the juvenile court upon filing a petition." (*Id.*, § 827(a)(1)(Q).) There is 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. (*Id.*, § 676(c).) In such cases, when a petition is sustained, the charging petition, the minutes of the proceeding, and the orders of adjudication and disposition shall be available for public inspection (*Id.*, § 676(d)), unless the juvenile court judge enters an order prohibiting disclosure (*Id.*, § 676(e)). Except for records and information enumerated in Welfare and Institutions Code section 676, however, if a record is part of a juvenile court case file, it should be kept confidential, with access allowed only as permitted under Welfare and Institutions Code section 827 and California Rules of Court, rule 5.552. Juvenile court records may also be subject to sealing orders under Welfare and Institutions Code sections 389, 781, 781.5, 786, 786.5, and 793. (See also § 10.3.2, "Sealed Records," below.)

2. Immigration status: Juvenile court records should remain confidential regardless of a juvenile's immigration status. (Welf. & Inst. Code, § 831(a).) Juvenile information may not be disclosed or disseminated to federal officials absent a juvenile court order issued upon the filing of a petition under Welfare and Institutions Code section 827(a)(1)(P). (*Id.*, § 831(b)–(c).) Juvenile information may not be attached to any documents given to or provided by federal officials absent prior approval of the presiding judge of the juvenile court under Welfare and Institutions Code section 827(a)(4). (*Id.*, § 831(d).) "Juvenile information" includes the "juvenile case file" as defined in Welfare and Institutions Code section 827(e), and information related to the juvenile, such as the juvenile's name, date or place of birth, and immigration status. (*Id.*, § 831(e).)

3. Dismissed petitions: The court must order sealed all records related to any petition dismissed under Welfare and Institutions Code section 786 that are in the custody of the juvenile court, law enforcement agencies, the probation department, and the Department of Justice. (*Id.*, § 786(a).) The procedures for sealing these records are stated in Welfare and Institutions Code section 786 and in rule 5.840 of the California Rules of Court. (See also Welf. & Inst.

Code, § 793(c) [requiring sealing of juvenile court records where petition is dismissed following deferred entry of judgment]; Cal. Rules of Court, rule 5.800(g).)

4. 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(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. (*Id.*, § 9200(b).)

5. Child custody evaluation reports: These reports must be kept in the confidential portion of the court file and are available only to the parties, their attorneys, federal or state law enforcement officers, the licensing entity of a child custody evaluator, judicial officers, court employees, family court facilitators for the county in which the action was filed (or employee or agents of those facilitators), counsel appointed for the child, and any other person upon order of the court for good cause. (*Id.*, §§ 3025.5(a), 3111(b); see Cal. Rules of Court, rule 5.220(g)(1); *A Notice Regarding Confidentiality of Child Custody Evaluation Report* (form FL-328); see also Welf. & Inst. Code, § 204; Prob. Code, § 1514.5.)

6. Child custody evaluations, investigations, and assessments of a serious allegation of child sexual abuse or an allegation of child abuse: These reports must be made on *Confidential Child Custody Evaluation Report* (form FL-329), and must attach as the first page of *Notice Regarding Confidentiality of Child Custody Evaluation Report* (form FL-328). The reports must also be kept in the confidential portion of the court file. (Fam. Code, § 3118(a), (b)(6), (i); Cal. Rules of Court, rule 5.220(g)(2).)

7. Child custody recommending counselor reports: These reports must be kept in the confidential portion of the court file and are available only to the parties, their attorneys, federal or state law enforcement officers, the licensing entity of a child custody evaluator, judicial officers, court employees, family court facilitators for the county in which the action was filed (or employees or agents of those facilitators), counsel appointed for the child, and any other person upon order of the court for good cause. (Fam. Code, § 3025.5(a). See also *id*., § 3183.)

8. Written statements of issues and contentions by counsel appointed for child: These written statements must be kept in the confidential portion of the court file and are available only to the parties, their attorneys, federal or state law enforcement officers, judicial officers, court employees, family court facilitators for the county in which the action was filed (or employees or agents of those facilitators), counsel appointed for the child, and any other

person, upon order of the court, for good cause. (Fam. Code, § 3025.5; see also *id.*, § 3151(b); Cal. Rules of Court, rule 5.242.)

9. Uniform Parentage Act documents: For cases filed before January 1, 2023, records in proceedings under the Uniform Parentage Act (Fam. Code, § 7600 et seq.), other than the final judgment, are not open to the public. (*Id.*, § 7643(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 parentage actions. Beginning January 1, 2023, Uniform Parentage Act records are no longer confidential unless the case is filed under Family Code sections 7613, 7630(f), or sections 7960–7962 (cases involving assisted reproduction).
10. Family Conciliation Court Law records: Records filed under this part of the Family Code (*Id.*, § 1800 et seq.) are confidential. The judge of the family conciliation court can grant permission in writing for a party or the party's counsel to review certain documents. (*Id.*, § 1818(b).)
11. Proceeding to terminate parental rights: Documents related to such proceedings are confidential; only persons specified by law may review the records. (*Id.*, § 7805.)
12. Support enforcement and child abduction records: Support enforcement and child abduction records held by public entities other than the court are generally confidential, but court records in these cases are not confidential. 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. (*Id.*, § 17212.)
13. Income tax returns in support cases: In a proceeding involving child, family, or spousal support, if a judge finds that it is relevant to the case to retain a party's tax return, the tax return must be sealed and maintained as a confidential record of the court. (*Id.*, § 3552(c).) If the judge "finds that the tax return is not relevant to disposition of the case, all copies of the tax return shall be returned to the party who submitted it." (*Ibid.*)

**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 a 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 court clerk shall make provisions for limiting the disclosure of the supplemental information exclusively to persons entitled thereto. (Prob. Code, § 1821(a); see also Cal. Rules of Court, rule 7.1050(c).)

3. Capacity declarations (forms GC-335 and GC-335A): If these forms are filed with or as attachments to form GC-312, they are confidential under Probate Code section 1821(a). If filed separately, they are confidential under Civil Code section 56.13.

4. *Confidential Conservator Screening Form* (form GC-314): This mandatory Judicial Council form is confidential. (Cal. Rules of Court, rule 7.1050(c).)

5. Reports regarding proposed conservatorship or guardianship: An investigative report created under Probate Code section 1513 or 1543 concerning a proposed guardianship is confidential and shall be made available only to persons who have been served in the action (generally, parents or legal custodians of a child) or their attorneys. (Prob. Code, §§ 1513(d), 1543(b).) To the extent confidential family court records related to the child's best interest are released to the probate court or investigator, those records must remain confidential under section 1514.5. An investigative report created under Probate Code section 1826 regarding a proposed conservatorship is confidential and shall be made available only to the petitioner, the proposed conservatee, other parties, persons given notice of the petition who have requested the report, or who have appeared in the proceedings, their attorneys, and the court. (*Id.*, § 1826(c).) The court has the discretion to release the information to others if it would serve the interest of the conservatee. (*Ibid*.) The court clerk shall make provisions for limiting the disclosure of the reports on guardianships and conservatorships exclusively to persons entitled thereto. (*Id.*, §§ 1513(d), 1826(c).) The written report of a regional center's assessment of a proposed limited or general conservatee with developmental disabilities is also confidential and shall be made available only to those persons specified by statute unless the court determines release of the report would serve the interests of the conservatee. (*Id.*, § 1827.5(d)–(e).)

   Investigator's review reports in conservatorships: These reports are confidential. (*Id.*, § 1851(e).) The information in the reports may be made available only to parties, persons identified in Probate Code section 1851(b), persons given notice of the petition who have requested the report or who have 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. (*Id.*, § 1851(e).) Section 1851(b) provides for special restricted treatment of attachments containing confidential medical information and confidential information from the California Law Enforcement Telecommunications System (CLETS). Although the attachments are not mentioned in subdivision (e), it is recommended—to be consistent with subdivision (b)—that they be treated as confidential and made available only to the conservator, conservatee, and their attorneys. The report of an

investigation in response to an order provisionally granting a petition to transfer a conservatorship from another state is also confidential. (*Id.*, §§ 1851.1(d), 2002.)

6. *Confidential Guardianship Status Report* (form GC-251): A report submitted by a court-appointed guardian under Probate Code section 1513.2 is confidential and must be made available only to persons served in the proceedings or their attorneys. (*Id.*, § 1513.2(c).)
7. Initial and annual certification by counsel of their qualifications for appointment in conservatorship and guardianship proceedings (form GC-010): The form states that it is confidential and for court use only. It is required by rules 7.1101(c)(4) and 7.1105 of the California Rules of Court. The certifications and any supporting documentation submitted to the court "must be maintained confidentially by the court. They must not be lodged or filed in a case file." (Cal. Rules of Court, rule 7.1105(e).)

**Protective Orders**

***Records that are confidential***

1. *Confidential CLETS Information* (form CLETS-001): Petitioners in civil protective order proceedings must use this Judicial Council form to submit information about themselves and the respondents to be entered through CLETS into the California Restraining and Protective Order System (CARPOS) (formerly known as the Domestic Violence Restraining Order System), a statewide database used to enforce protective orders. (See Fam. Code, § 6380; Pen. Code, § 14231.5.) This form is submitted to the courts by petitioners in the following restraining order proceedings: domestic violence, civil harassment, elder and dependent adult abuse, juvenile, workplace violence, private postsecondary school violence, and gun violence. The information on the form is intended for the use of law enforcement. The form is confidential. Access to the information on the form 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 form must not be included in any portion of the court file. (Cal. Rules of Court, rule 1.51.)
2. Protecting information about a minor in protective order cases: Under Code of Civil Procedure section 527.6 and Family Code section 6301.5, a minor or minor's legal guardian may petition the court to have information regarding the minor kept *confidential* if the information was obtained in connection with a request for a civil harassment or domestic violence protective order. The information that may be kept confidential includes, but is not limited to, the minor's name and address, and the circumstances surrounding the request for a protective order with respect to the minor. California Rules of Court, rules 3.1161 and 5.382 provide standards and procedures for courts to follow when handling requests to make minors' information confidential in civil harassment and domestic violence protective order proceedings, respectively. The minor or the minor's legal guardian may submit a *Request to Keep Minor's Information Confidential* (forms CH-160 and DV-160) at any time during the case. (Cal. Rules of Court, rules 3.1161(d)(1), 5.382(d)(1).) Using the *Order on Request to*

*Keep Minor's Information Confidential* (forms CH-165 and DV-165), a court must expressly find all of the following to grant such a request:

- "The minor's right to privacy overcomes the right of public access to the information";
- "There is a substantial probability that the minor's interest will be prejudiced if the information is not kept confidential";
- "The order to keep the information confidential is narrowly tailored"; and
- "No less restrictive alternative exists to protect the minor's privacy."

(Code Civ. Proc., § 527.6(v)(2); Fam. Code, § 6301.5(b).)

When a confidentiality order has been issued, the clerk must complete the *Notice of Order Protecting Information of Minor* (form CH-170 or DV-170) and use it as a cover sheet for the unredacted documents. The cover sheet will provide notice to the party (often the restrained person) being served with unredacted documents that the documents contain confidential information subject to a confidentiality order. (See Cal. Rules of Court, rules 3.1161(e)(2)(D), 5.382(e)(2)(D).)

*Cover Sheet for Confidential Information* (form CH-175 or DV-175) will be used as a cover sheet for any documents that include confidential information subsequently filed in the protective order proceedings. (See Cal. Rules of Court, rules 3.1161(i)(1), 5.382(i)(1).) This form alerts the clerk that the documents contain confidential information so that the court can file the unredacted documents in the court's confidential files and make a determination as to who would be responsible for redaction of the documents; redacted versions could then be placed in the public files. This cover sheet can also be used in any other civil proceedings to alert the court in that proceeding that a confidentiality order exists protecting the minor's information. (See Code Civ. Proc., § 527.6(v)(3)(A); Fam. Code, § 6301.5(c)(1).)

A court, on its own motion at any time or on the filing of a petition, may grant disclosure of information ordered to be kept confidential to certain individuals or entities as necessary to prevent harassment or if it is in the best interest of the minor. (Code Civ. Proc., § 527.6(v)(4)(B)); Fam. Code, § 6301.5(d)(2); Cal. Rules of Court, rules 3.1161(h)(3), 5.382(h)(3).)

A court also may authorize disclosure of information regarding a minor to any person who files a petition, if the information had been ordered to be kept confidential and the court determines that disclosure is necessary to prevent harassment, would prevent abuse, or is in the minor's best interest. (Code Civ. Proc., § 527.6(v)(4)(C); Fam. Code, § 6301.5(d)(3); Cal. Rules of Court, rules 3.1161(h)(3), 5.382(h)(3).) Any person or entity may request the release of the confidential information by filing *Request for Release of Minor's Confidential Information* (form CH-176 or form DV-176) and *Order on Request for Release of Minor's Confidential Information* (form CH-179 or form DV-179). (See Cal. Rules of Court, rules 3.1161(h)(3)(A)(i), 5.382(h)(3)(A)(i).) Within 10 days of the filing of form CH-176 or form DV-176, the court clerk must serve, by first-class mail, on the minor or legal guardian

who made the request to keep the minor's information confidential, the documents listed in rule 3.1161(h)(3)(A)(ii) or rule 5.382(h)(3)(A)(ii), respectively.

3. Notice of noncompliance of firearms order to law enforcement or prosecutor: When the court determines that a restrained person in a domestic violence restraining order proceeding has firearms, specified firearms, specified firearm parts, or ammunition in violation of the restraining order, the court must provide notice of noncompliance to law enforcement or a prosecuting agency by using *Noncompliance With Firearms and Ammunition Order, or Warrant* (form DV-830). (Fam. Code, §§ 6306(e), 6389(c)(4).) This form must be maintained in a confidential file as it may contain information from CLETS (e.g., conviction or arrest information obtained from RAP sheet). The court must also attach a copy of the restraining order to form DV-830. In juvenile cases, when the court determines that a restrained person has firearms, specified firearm parts, or ammunition in violation of the restraining order, the court must provide notice of noncompliance to a prosecuting agency by using *Noncompliance With Firearms and Ammunition Order, or Warrant* (form JV-274). (Fam. Code, § 6389(c)(4); Welf. & Inst. Code, § 213.5(g)(1).) This form must be maintained in a confidential file as it may contain information from CLETS (e.g., conviction or arrest information obtained from RAP sheet). The court must also attach a copy of the restraining order to form JV-274. Note that juvenile courts are not required to notify law enforcement of noncompliance because Welfare and Institutions Code section 213.5 does not provide that Family Code section 6306(e) applies to juvenile restraining orders.

**Jury Information**

***Records that are confidential***

1. Juror questionnaires of those jurors not called for voir dire: 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. (*Id*., § 206(g).)

***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 and impartial trial, a judge may seal that part of the transcript until the defendant's trial has been completed. (Pen. Code, § 938.1; see *Rosato v. Superior Court* (1975) 51 Cal.App.3d 190, 206 [trial court had authority and duty, in view of extensive publicity given to the handing down of the indictment of public officials, to order that transcript of grand jury testimony be sealed.) 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' 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; see also Code Civ. Proc., § 237; *Townsel v. Superior Court* (1999) 20 Cal.4th 1084, 1091 [a trial court has inherent power to protect juror safety and juror privacy].) Thus, any juror information that a judge orders sealed is not open to the public.

3. Confidentiality of requests for permanent medical excuse from jury service: Rule 2.1009 of the California Rules of Court provides a process that a person with a disability may use to request a permanent medical excuse or release from jury service where the person's condition is unlikely to resolve and, with or without accommodations, including the provision of auxiliary aids or services, the person is not capable of performing jury service. The rule provides that the jury commissioner must keep confidential all information concerning the request for permanent medical excuse, including any accompanying request for disability-related accommodation, unless the applicant waives confidentiality in writing or the law requires disclosure. The applicant's identity and confidential information may not be disclosed to the public but may be disclosed to court officials and personnel involved in the permanent medical excuse process. (Cal. Rules of Court, rule 2.1009(c)(4).)

### 10.3.2 Sealed records

Rules 2.550 and 2.551 of the California Rules of Court address orders sealing trial court records. The content and scope of the sealing is specified in the sealing order. The order must direct the sealing of "only those documents and pages, or, if reasonably practicable, portions of those documents and pages, that contain the material that needs 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)(1)(B).)

"Sealed records must be securely filed and kept separate from the public file in the case. If the sealed records are in electronic form, appropriate access controls must be established to ensure that only authorized persons may access the sealed records." (*Id.*, rule 2.551(f).)

There are also specific statutes and rules allowing the sealing of juvenile records. Under Welfare and Institutions Code section 781, and rule 5.830 of the California Rules of Court, for example, a former ward of the court may 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 using form JV-590, *Order to Seal Juvenile Records—Welfare and Institutions Code Section 781*, or a similar form. The order must apply in the county of the court hearing the petition and in all other counties in which there are juvenile records concerning the petitioner. If the court determines that sealing the records of another court for a petition that has not been transferred is inappropriate, it must inform the petitioner that a petition to seal those records can be filed in the county where the other court is located." (Cal. Rules of Court, rule 5.830(a)(6).)

"All records sealed must be destroyed according to section 781(d)." (Cal. Rules of Court, rule 5.830(c); see Welf. & Inst. Code, § 781(d) [absent good cause, the court must order the destruction of juvenile court records sealed under that section after a specified period or when the person described in the records reaches a specified age]; see also Welf. & Inst. Code, §§ 389, 781.5, 786, 786.5, 793 [authorizing sealing orders for juvenile records].) Once the sealed juvenile case records are destroyed or obliterated as required by statute, the case should be removed entirely from a court's index and excluded from the court's sampling program.

Additionally, Welfare and Institutions Code section 5976.5(c) authorizes the respondent in a CARE Act proceeding to petition the court for an order sealing records in the proceeding, as specified, and the filing of such petition creates a presumption in favor of sealing.

## 10.4 Judicial Administrative Records

Judicial administrative records are not "court records," as defined in the Government Code. (Compare Gov. Code, § 68150(a) [defining "court record"] with Cal. Rules of Court, rule 10.500(c)(2) [defining "judicial administrative record"].) Judicial administrative records are outside the scope of this manual. (But see Cal. Rules of Court, rule 10.500 [addressing the public's right of access to judicial administrative records].)

## 10.5 Civil Subpoenas and Related Fees

Courts may collect fees related to the cost of preparing copies when complying with civil subpoenas for the production of records. When the requested records fall within the definition of "court records" as defined by Government Code sections 68150 and 68151, the court may charge

$0.50 per page as listed in the statewide civil fee schedule for "preparing a copy of any record, proceeding or paper on file." (See Gov. Code, § 70627(a); see also § 70627(c) [authorizing $15 fee for a search of records or files that requires more than 10 minutes].) However, the state and other California public entities are generally exempt from paying fees for official court services, such as copying civil case records, although they may be charged a fee for copying criminal case records. (See Gov. Code, §§ 6103, 70633.)

A requesting party is generally not entitled to receive records that are sealed or deemed confidential by law. (See 10.3.1 Confidential records and 10.3.2 Sealed records; but see, e.g., Bus. & Prof. Code, § 6090.6 [State Bar may have access to nonpublic court records in disciplinary proceedings].)

Subpoenas for administrative records, such as employee personnel records, are outside the scope of this manual. (But see Evid. Code, § 1560 et. seq. and the fees specified in § 1563.)

# 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.

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, below. 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 in paper form 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 for consistency with the California Integrated Waste Management Act (Pub. Resources Code, § 40000 et seq.), 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 adopted by the Judicial Council." Section 68150(f) further establishes that a "copy of a court record created, maintained, preserved, or reproduced" in electronic form "shall be deemed an original court record and may be certified as a true and correct copy of the original record." Thus, generally, paper court records may be destroyed once a court has scanned them into electronic form because destruction of the paper following conversion to electronic format does not mean the record itself has been destroyed. Rather, the electronic version itself can serve as the original, or official, court record if certified by the court.

As authorized in Government Code section 68152, the clerk of the court may destroy court records under Government Code section 68153 if specified conditions are met, with the exception of "comprehensive historical and sample court records," discussed in the next section below, which must be preserved. Notation of the date on which records are destroyed must "be made on the index of cases or on a separate destruction index." (Gov. Code, § 68153.)

The five conditions for the destruction of records under Government Code sections 68152 and 68153 are as follows:

1. The applicable retention period has expired (Gov. Code, § 68152);

2. There is a final disposition of the case (*id.*, § 68152; see *id.*, § 68151(c) [defining "[f]inal disposition of the case"]);
3. The court has given notice of its intent to destroy records that are open to public inspection (notice is not applicable for limited civil, small claims, misdemeanor, or infraction cases) (*id.*, § 68152; see Cal. Rules of Court, rule 10.856(b), (f) [notice requirements and mandatory forms]);
4. There is no request and no order for transfer of the records (Gov. Code, § 68152; see Cal. Rules of Court, rule 10.855(c)–(e), (h) [requirements where one or more entity requests possession of the records and mandatory form]); and
5. The presiding judge of the court orders the records to be destroyed (Gov. Code, § 68153; see also Cal. Rules of Court, rule 10.856(f)).

**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 Judicial Council's master list, which can be located on the Judicial Resources Network, and to others who directly requested notification. (Cal. Rules of Court, rule 10.856(b).) A court must use the following forms as part of its records destruction process for records open to public inspection and not applicable to limited civil, small claims, misdemeanor, or infraction cases:

1. *Notice of Intent to Destroy Superior Court Records; Offer to Transfer Possession* (form REC-001(N)) with a form on the reverse titled *Request for Transfer or Extension of Time for Retention of Superior Court Records* (form REC-001(R));
2. *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)); and
3. *Release and Receipt of Superior Court Records* (form REC-002(R)).

(Cal. Rules of Court, rule 10.856(h).)

### 11.1.1 Court records sampling program

Government Code section 68152 prohibits superior courts from destroying "comprehensive historical and sample superior court records preserved for research under the California Rules of Court."[22] (See also Gov. Code, § 68150(i)(1).) To implement the statutory requirement, the Judicial Council adopted rule 10.855 of the California Rules of Court, establishing the superior court records sampling program. The rule expressly does not address records of limited civil, small claims, misdemeanor, or infraction cases (Cal. Rules of Court, rule 10.855(b)) but

[22] Court records of the appellate division should be included in the sample of records that are to be preserved given that the records sampling program existed before trial court unification and appeals for municipal court decisions were heard by the appellate division of the superior court.

otherwise requires courts to "preserve forever a sample of court records as provided by [rule 10.855] of all cases, including sealed, expunged, and other confidential records to the extent permitted by law."[23] Under Government Code sections 68150 and 68151, a court may maintain the sampling in electronic form.

### Comprehensive and Significant Records

Rule 10.855(c) of the California Rules of Court directs that each superior court must preserve forever the following "comprehensive and significant records":

1. "All records filed before 1911";
2. "If practicable, all records filed after 1910 and before 1950";
3. "All cases indexes"; and
4. "All noncapital cases in which the California Supreme Court has issued a written opinion." (See section 11.3, below, for more information.)

### Preservation Medium

Rule 10.855(g) states that "comprehensive and significant court records" filed before 1911 must be preserved in their original paper form unless the paper is not available.

Records filed after 1910 and sample records under 10.855(d) must be retained permanently in accordance with the requirements of the *Trial Court Records Manual.* As such, these records may be maintained electronically.

### Sampling Technique

Three superior courts, assigned in rotation by the Judicial Council, must preserve a random sample of 25 percent of their court records for a calendar year. (Cal. Rules of Court, rule 10.855(f)(1).) In recognition of the considerably greater number of cases filed with the Superior Court of Los Angeles County each year, rule 10.855(f)(1) creates an exception for this court, which must preserve a random sample of 10 percent of its court records for an assigned calendar year. All courts must also preserve all judgment books, minute books, and registers of action if maintained separately from the case files, for the assigned calendar year. (*Id.*, rule 10.855(f)(2).)

The rotation assignment for samples of court records is included in Appendix 2 of this manual.

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[23] Some records are not "permitted by law" to be retained permanently. For example, courts must destroy or obliterate certain sealed juvenile records after specified time periods. (See, e.g., Welf. & Inst. Code, §§ 389, 781.) Some criminal case records must also be ordered destroyed or permanently obliterated after a certain time period. (See, e.g., Health & Saf. Code, § 11361.5 [certain marijuana offenses]; Pen. Code, §§ 236.14 [human trafficking victim], 851.8 [factual innocence].) Even if these records are part of a court's random sample of records selected for permanent preservation under rule 10.855, they should be destroyed at the appropriate time because their preservation is not "permitted by law." (Cal. Rules of Court, rule 10.855(d).)

**Retroactive Application**

The Judicial Council amended rule 10.855 effective July 1, 2016, substantially reducing the overall number of records that superior courts must preserve, and the corresponding burden on courts, while still retaining a statistically significant sample of statewide records. The revised sampling program applies retroactively to all superior courts. (*Id.*, rule 10.855(j).) Because the destruction of court records is discretionary unless otherwise provided by law, all courts may elect to apply the rule retroactively and destroy court records that are not required to be preserved under the new sampling program, but they are not required to do so. (*Id.*, rule 10.855, Advisory Com. com. to subd. (j).)

Superior courts that destroyed court records under the prior sampling rule may have preserved only 10 percent of their records (formerly known as the "systematic sample") for the year that they are now assigned to preserve the sample defined in rule 10.855(f). With the exception of the Superior Court of Los Angeles County, which is assigned to preserve only 10 percent of its records in the new sampling program, these courts would not be able to meet the requirement in subdivision (f)(1). The Advisory Committee comment to rule 10.855 clarifies that, so long as these courts continue preserving the 10 percent sample for their assigned year, they will be deemed to have satisfied subdivision (f)(1). (See *id.*, rule 10.855, Advisory Com. com.)

## 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 Noncapital Cases in Which the California Supreme Court Issues a Written Opinion

Under rule 10.855(c)(4) of the California Rules of Court, each court must preserve forever the records for all noncapital cases in which the California Supreme Court has issued a written opinion.[24]

It is the responsibility of every court to check annually and flag the cases that, as a result of Supreme Court review, must be permanently retained in the sampling program. Courts may search Supreme Court case information on the Appellate Courts Case Information webpage and the Published/Citable Opinions webpage of the California Courts website.

[24] As indicated in section 11.4.1 below, courts also must retain permanently all records in capital cases. (Gov. Code, § 68152(c)(1).)

## 11.4 Schedule of Records Retention and Destruction 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 specify the retention periods for most court records. The chart below provides listings of the various types of records, grouped into major case categories. (Regarding records of administrative proceedings that are lodged with a court, see "Administrative records," page 16.)

| | CASE TYPE | MINIMUM RETENTION PERIOD | SPECIAL CASE TYPE CHARACTERISTICS/REFERENCES/NOTES |
|---|---|---|---|
| CIVIL ACTIONS AND PROCEEDINGS | | | |
| **(1)** | Civil actions and proceedings, except as otherwise specified | Retain 10 years. | |
| **(2)** | Civil unlimited cases, limited cases, small claims cases, including after trial de novo, if any, except as otherwise specified | Retain 10 years. | |
| **(3)** | Civil judgments for unlimited civil cases | Retain permanently. | Court-ordered dismissals that serve as the final disposition of a matter should be treated as judgments. (See Gov. Code, § 68152(a)(3); Code Civ. Proc., §§ 577, 581d.) |
| **(4)** | Civil judgments for limited and small claims | Retain 10 years, unless judgment is renewed.<br><br>If judgment is renewed, retain judgment for length of renewal under article 2 (commencing with section 683.110) of chapter 3 of division 1 of title 9 of part 2 of the Code of Civil Procedure. | Court-ordered dismissals that serve as the final disposition of a matter should be treated as judgments. (See Gov. Code, § 68152(a)(3); Code Civ. Proc. §§ 577, 581d.) |
| **(5)** | If a party in civil case appears by a guardian | Retain 10 years after termination of the court's jurisdiction. | |

| | CASE TYPE | MINIMUM RETENTION PERIOD | SPECIAL CASE TYPE CHARACTERISTICS/REFERENCES/NOTES |
|---|---|---|---|
| **(6)** | Civil harassment, domestic violence, elder and dependent adult abuse, private postsecondary school violence, gun violence, and workplace violence cases | Retain same period of time as the duration of the restraining or other orders and any renewal thereof, then retain the restraining or other orders permanently as a judgment.<br><br>Retain 60 days after expiration of the temporary restraining or other temporary order.<br><br>Retain permanently judgments establishing paternity under section 6323 of the Family Code. | Except in cases where records have been sealed in a Civil Harassment Order or Domestic Violence Restraining Order to keep the information of a minor child confidential. See Code of Civil Procedure section 527.6, Family Code section 6301.5, and California Rules of Court, rules 3.1161 and 5.382. |
| **(7)** | Family law, except as otherwise specified | Retain 30 years.<br><br>Retain judgment permanently. | Petitions to declare children free from parental custody and control, terminating parental rights, under Family Code section 7802, would be one example, as the statutory provisions are not a part of adoption laws (Fam. Code, § 8500 et seq.), or of the Uniform Parentage Act (*Id.*, § 7600 et seq.). Petitions to terminate parental rights and related court records are confidential. (See *id.*, § 7805.) |
| **(8)** | Adoption | Retain permanently. | Confidential under Family Code section 9200–9209—Parties to the action, their attorneys, and the state Department of Social Services may view the court file. Family Code section 9200(c) states that, 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 it is a stepparent adoption. |
| **(9)** | Parentage | Retain permanently. | Family Code section 7643(a). Records in Uniform Parentage Act proceedings filed before January 1, 2023, except the final judgment, are not open to the public. Under Family Code section 7643(b), only parties to the action, their attorneys of record, and agents acting upon written authorization of the parties or their attorneys may inspect the court file. Beginning January 1, 2023, Uniform |

| | CASE TYPE | MINIMUM RETENTION PERIOD | SPECIAL CASE TYPE CHARACTERISTICS/REFERENCES/NOTES |
|---|---|---|---|
| | | | Parentage Act proceedings are open to the public unless they involve assisted reproduction (see Fam. Code, § 7643.5). |
| **(10)** | Change of name, gender, or name and gender | Retain permanently. | |
| **(11)** | Probate | | |
| | (A) Decedent estates | Retain permanently all orders, judgments, and decrees of the court, all inventories and appraisals, and all wills and codicils of the decedent filed in the case, including those not admitted to probate. All other records retain for five years after final disposition of the estate proceeding. | |
| | (B) Wills and codicils | Retain permanently. | |
| | (i) Wills and codicils transferred or delivered to the court under section 732, 734, or 8203 of the Probate Code: | | |
| | (ii) Wills and codicils delivered to the clerk of the court under section 8200 of the Probate Code | Retain the original documents as provided in section 26810 of the Government Code. | |
| | (C) Substitutes for decedent estate administration | | |
| | (i) Affidavit procedures for real property of small value under chapter 3 (commencing with section 13100) of part 1 of division 8 of the Probate Code | Retain permanently. | |

| | CASE TYPE | MINIMUM RETENTION PERIOD | SPECIAL CASE TYPE CHARACTERISTICS/REFERENCES/NOTES |
|---|---|---|---|
| | (ii) Proceedings for determining succession to property under chapter 4 (commencing with section 13150) of part 1 of division 8 of the Probate Code | Retain permanently all inventories and appraisals and court orders. Other records retain for five years after final disposition of the proceeding. | |
| | (iii) Proceedings for determination of property passing or belonging to surviving spouse under chapter 5 (commencing with section 13650) of part 2 of division 8 of the Probate Code | Retain permanently all inventories and appraisals and court order. Other records retain for five years after final disposition of the proceeding. | |
| | (D) Conservatorships | Retain permanently all court orders.<br><br>Retain documents of trusts established under substituted judgment under section 2580 of the Probate Code as provided in section 68152(a)(11)(G)(iii) of the Government Code. Other records retain for five years after the later of either (1) the final disposition of the conservatorship proceeding, or (2) the date of the conservatee's death, if that date is disclosed in the court's file. | |
| | (E) Guardianships | Retain permanently orders terminating the guardianship, if any, and court orders settling final account and ordering distribution of the estate. Other records retain for five years after the later of (1) the final disposition of the guardianship proceeding, or (2) the earlier of the date of the ward's death, if that date is disclosed in | |

| | CASE TYPE | MINIMUM RETENTION PERIOD | SPECIAL CASE TYPE CHARACTERISTICS/REFERENCES/NOTES |
|---|---|---|---|
| | | the court's file, or the date the ward reaches 23 years of age. | |
| | (F) Compromise of minor's or disabled person's claim or action, and disposition of judgment for minors and disabled persons under Code of Civil Procedure section 372 and chapter 4 (commencing with section 3600) of part 8 of division 4 of the Probate Code | | |
| | (i) Judgments in favor of minors or disabled persons, orders approving compromises of claims and actions and disposition of the proceeds of judgments, orders directing payment of expenses, costs, and fees, orders directing deposits into blocked accounts and receipts and acknowledgments of those orders, and orders for the withdrawal of funds from blocked accounts. | Retain permanently. | |

| | CASE TYPE | MINIMUM RETENTION PERIOD | SPECIAL CASE TYPE CHARACTERISTICS/REFERENCES/NOTES |
|---|---|---|---|
| | (ii) Other records. | Retain for the same retention period as for records in the underlying case. If there is no underlying case, retain for five years after the later of either (1) the date the order for payment or delivery of the final balance of the money or property is entered, or (2) the earlier of the date of the minor's death, if that date is disclosed in the court's file, or the date the minor reaches 23 years of age. | |
| | (G) Trusts | Retain permanently all trust instruments and court orders. Other records retain as long as the underlying conservatorship file is retained. | |
| | (i) Proceedings under part 5 (commencing with section 17000) of division 9 of the Probate Code | | |
| | (ii) Trusts created by substituted judgment under Probate Code section 2580 | | |
| | (iii) Special needs trusts | Retain permanently all trust instruments and court orders. Other records retain until the later of either (1) the retention date of "other records" in the beneficiary's conservatorship or guardianship file under subparagraph (a)(11)(D) or (a)(11)(E) of section 68152 of the Government Code, if any, or (2) 5 years after the date of the beneficiary's death, if that date is disclosed in the court's file. | |
| | (H) All other proceedings under the Probate Code | Retain as provided for civil cases. | |

| | CASE TYPE | MINIMUM RETENTION PERIOD | SPECIAL CASE TYPE CHARACTERISTICS/REFERENCES/NOTES |
|---|---|---|---|
| **(12)** | Mental Health | | Under Welfare and Institutions Code section 5328.15, all information and records obtained in providing services under division 5 of the code (commencing with section 5000) are confidential, and only specified individuals may have access, including the judge or hearing officer and the parties to any criminal, civil, or administrative proceeding. |
| | (A) Lanterman Developmental Disabilities Services Act (Welf. & Inst. Code, § 4500 et seq.) | Retain 10 years. | |
| | (B) Lanterman-Petris-Short Act (*Id.*, § 5000 et seq.) | Retain 20 years. | |
| | (C) *Riese* (capacity) hearings under sections 5333 and 5334 of the Welfare and Institutions Code | Retain for the later of either (1) 20 years after the date of the capacity determination order, or (2) the court records retention date of the underlying involuntary treatment or commitment proceeding, if any. | |
| | (D) Petitions under chapter 3 (commencing with section 8100) of division 8 of the Welfare and Institutions Code for the return of firearms to petitioners who relinquished them to law enforcement while detained in a mental health facility | Retain 10 years. | |
| | Petitions for Indeterminate Commitments—Sexually Violent Predator under Welfare and Institutions Code sections 625, 6316, and 6600 | There is no specific statute that addresses the retention of these case types. (Recommended retention is 20 years after final disposition.) | This retention period aligns with other Lanterman-Petris-Short Act (*Id.*, § 5000 et seq.) commitments. |
| | Developmentally disabled commitments under Welfare and Institutions Code section 6500 | There is no specific statute that addresses the retention of this case type. (Recommended retention is 10 years after final disposition.) | This retention period aligns with Government Code section 68152(a)(12)(A): "Lanterman Developmental Disabilities Services Act: retain for 10 years." |

| | CASE TYPE | MINIMUM RETENTION PERIOD | SPECIAL CASE TYPE CHARACTERISTICS/REFERENCES/NOTES |
|---|---|---|---|
| **(13)** | Eminent domain | Retain permanently. | |
| **(14)** | Real property other than unlawful detainer | Retain permanently if the action affects title or an interest in real property. | |
| **(15)** | Unlawful detainer | Retain for one year if judgment is only for possession of the premises.<br><br>Retain for 10 years if judgment is for money, or money and possession. | Confidential under Code of Civil Procedure section 1161.2(a)(1)—The following are allowed to view the court file:<br>(A) a party to the action, including a party's attorney.<br>(B) a 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 or unit number, if any.<br>(C) 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.<br>(D) a person by order of the court, which may be granted ex parte, on a showing of good cause.<br>(E) Except as provided in subparagraph (G), to any person by order of the court if judgment is entered for the plaintiff after trial more than 60 days since the filing of the complaint. The court shall issue the order upon issuing judgment for the plaintiff.<br>(F) Except as provided in subparagraph (G), to any other person 60 days after the complaint has been filed if judgment against all defendants has been entered for the plaintiff within 60 days of the filing of the complaint, in which case the clerk shall allow access to any court records in the action. If a default or default judgment is set aside more than 60 days after the complaint has been filed, this section shall apply as if the complaint had been filed on the date the default or default judgment is set aside.<br>(G) (i) In the case of a complaint involving residential property based on Section 1161a as indicated in the caption of the complaint, as required in subdivision (c) of Section 1166, to any other person, if 60 days have elapsed since the complaint was filed with the court, and, |

| | CASE TYPE | MINIMUM RETENTION PERIOD | SPECIAL CASE TYPE CHARACTERISTICS/REFERENCES/NOTES |
|---|---|---|---|
| | | | as of that date, judgment against all defendants has been entered for the plaintiff, after a trial.<br>(ii) Subparagraphs (E) and (F) shall not apply if the plaintiff filed the action between March 4, 2020, and September 30, 2021, and the action is based on an alleged default in the payment of rent. |
| **(16)** | Any civil or small claims case in the trial court:<br><br>(1) Involuntarily dismissed by the court for delay in prosecution or failure to comply with state or local rules<br>(2) Voluntary dismissed by a party without entry of judgment | Retain one year.<br><br>Retain one year. | For unlimited civil cases, court-ordered dismissals that serve as the final disposition of a matter should be treated as judgments. (See Gov. Code, § 68152(a)(3); Code Civ. Proc. §§ 577, 581(d).)<br><br>Note: Although the retention period on the case is one year, the register of action or docket shall be retained in no event less than 10 years for civil and small claims cases. |
| CRIMINAL ACTIONS AND PROCEEDINGS | | | |
| **(1)** | Capital felony in which the defendant is sentenced to death, and any felony resulting in a sentence of life or life without the possibility of parole<br><br>"Capital felony" means murder with special circumstances when the prosecution seeks the death penalty. Records of the cases of codefendants and related cases required to be retained shall be limited to those cases that are factually linked or related to the charged offense, that are identified in the courtroom, and that are placed on the record. | Retain permanently, including records of the cases of any codefendants and any related cases, regardless of the disposition.<br><br>If a capital felony is disposed of by a sentence less than death, or imprisonment for life or life without the possibility of parole, retain the judgement permanently, and retain the record for 50 years or for 10 years after the official written notification of the death of the defendant.<br><br>If a capital felony is disposed of by an acquittal, retained for 10 years. | |

| | CASE TYPE | MINIMUM RETENTION PERIOD | SPECIAL CASE TYPE CHARACTERISTICS/REFERENCES/NOTES |
|---|---|---|---|
| **(2)** | Felony, except as otherwise specified, and in any felony or misdemeanor case resulting in a requirement that the defendant register as a sex offender under section 290 of the Penal Code | Retain judgment permanently.<br><br>For all other documents, retain for 50 years or the maximum term of the sentence, whichever is longer. However, any record other than the judgment may be destroyed 10 years after the death of the defendant.<br><br>Felony case files that do not include final sentencing or other final disposition because the case was bound over from a former municipal court to the superior court and not already consolidated with the superior court felony case file, retain for 10 years from the disposition of the superior court case. | |
| **(3)** | Felony reduced to a misdemeanor | Retain in accordance with the retention period for the relevant misdemeanor. | |
| **(4)** | Felony, if the charge is dismissed, except not if dismissed under section or 1203.4a of the Penal Code | Retain three years. | |
| **(5)** | Misdemeanor, if the charge is dismissed, except not if dismissed under section 1203.4 or 1203.4a of the Penal Code | Retain one year. | |
| **(6)** | If charges are dismissed under section 1203.4 or 1203.4a of the Penal Code | Retain for the same retention period as for records of the underlying case. If the records in the underlying case have been destroyed, retain for five years after dismissal. | This retention period applies to expungement petitions under Penal Code sections 1203.4 and 1203.4a. |
| **(7)** | Misdemeanor, except as otherwise specified | Retain 5 years. | |

| | CASE TYPE | MINIMUM RETENTION PERIOD | SPECIAL CASE TYPE CHARACTERISTICS/REFERENCES/NOTES |
|---|---|---|---|
| | For misdemeanors alleging a violation of section 23103, 23152, or 23153 of the Vehicle Code | Retain 10 years. | |
| **(8)** | Misdemeanor alleging a marijuana violation under of Health and Safety Code section 11357(b) or (c) or section 11360(b) | Records shall be destroyed, or redacted in accordance with Health and Safety Code section 11361.5(c), two years from the date of conviction, or from the date of arrest if no conviction, if the case is no longer subject to review on appeal, all applicable fines and fees have been paid, and the defendant has complied with all terms and conditions of the sentence or grant of probation.<br><br>However, as provided in Health and Safety Code section 11361.5(a) and Government Code section 68152(e)(5), retain records of an infraction alleging a marijuana violation under Health and Safety Code section 11357(d) until the offender attains 18 years of age, at which time the records shall be destroyed as provided in Health and Safety Code section 11361.5(c). | The requirements of section 11361.5 *do not* apply to the destruction of records of: a conviction that remains subject to review on appeal; 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 an arrest while the underlying charges remain outstanding. (*Younger v. Superior Court* (1978) 21 Cal.3d 102, 111–114.) |
| **(9)** | Misdemeanor reduced to an infraction | Retain in accordance with the retention period for the relevant infraction. | |
| **(10)** | Infraction, except as otherwise specified<br><br>Vehicle Code infraction | Retain for one year.<br><br>Retain for three years. | |

| | CASE TYPE | MINIMUM RETENTION PERIOD | SPECIAL CASE TYPE CHARACTERISTICS/REFERENCES/NOTES |
|---|---|---|---|
| | Infraction alleging a marijuana violation under Health and Safety Code section 11357(a) | If records are retained past the one-year minimum retention period, the records shall be destroyed or redacted in accordance with Health and Safety Code section 11361.5(c) two years from the date of conviction, or from the date of arrest if no conviction, if the case is no longer subject to review on appeal, all applicable fines and fees have been paid, and the defendant has complied with all terms and conditions of the sentence or grant of probation. | The requirements of section 11361.5 *do not* apply to the destruction of records of: a conviction that remains subject to review on appeal; 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 an arrest while the underlying charges remain outstanding. (*Younger v. Superior Court* (1978) 21 Cal.3d 102, 111–114.) |
| **(11)** | Criminal protective order | Retain until the order expires or is terminated. | |
| **(12)** | Arrest warrant | Retain for the same retention period as for records in the underlying case. If there is no underlying case, retain for one year from the date of issue. | Penal Code section 168 provides punishment for willful disclosure of the fact of the warrant by the district attorney, clerk, judge, or peace officer prior to execution of warrant. |
| **(13)** | Search warrant | If there is any underlying case, retain for 10 years from the date of issue or, if the retention period for records in the underlying case is less than 10 years or if the underlying case is a capital felony described in Government Code section 68152(c)(1), retain for the same retention period as for records in the underlying case.<br><br>If there is no underlying case, retain for five years from the date of issue. | Information obtained by a special master under search warrant is confidential under Penal Code section 1524(d)(1), and can be only divulged upon direct inquiry by the court. Penal Code section 168 provides punishment for willful disclosure of the fact of the warrant by the district attorney, clerk, judge, or peace officer prior to execution of warrant. |
| **(14)** | Probable cause declarations | Retain for the same retention period as for records in the underlying case.<br><br>If there is no underlying case, retain for one year from the date of declaration. | Penal Code section 168 provides punishment for willful disclosure by the district attorney, clerk, judge, or peace officer prior to execution of warrant. |

| | CASE TYPE | MINIMUM RETENTION PERIOD | SPECIAL CASE TYPE CHARACTERISTICS/REFERENCES/NOTES |
|---|---|---|---|
| **(15)** | Proceedings for revocation of postrelease community supervision or postrelease parole supervision | Retain for five years after the period of supervision expires or is terminated. | |
| **(16)** | Penal Code: Penal Code section 2966 Board of Prison Terms Hearing | There is no specific statute that addresses the retention of this case type. Recommend retaining 5 years after final case disposition. | Administrative review, similar to appellate cases. |
| HABEAS CORPUS | | | |
| **(1)** | Habeas corpus in criminal and family law matters | Retain for the same retention period as for records in the underlying case, whether granted or denied. | |
| **(2)** | Habeas corpus in mental health matters | Retain all records for the same retention period as for records in the underlying case, whether granted or denied.<br><br>If there is no underlying case, retain records for 20 years. | See, e.g., Welfare and Institutions Code section 5275 ("Every person detained by certification for intensive treatment shall have the right to a hearing by writ of habeas corpus for his or her release").<br><br>Under Welfare and Institutions Code section 5328.15, all information and records obtained in providing community mental health services under division 5 of the code (commencing with section 5000) is confidential, and only specified individuals may have access, including the judge or hearing officer and the parties to any criminal, civil, or administrative proceeding. |
| JUVENILES | | | |
| **(1)** | Dependent under section 300 of the Welfare and Institutions Code | Upon reaching 28 years of age, or on written request, shall be released to the juvenile five years after jurisdiction over the person has terminated under Welfare and Institutions Code section 826(a). Sealed records shall be destroyed upon court order five years after the records have been | Confidential under California Rules of Court, rule 5.552 and Welfare and Institutions Code section 827(a)(1)(A)–(T). The parents or guardians 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, and other specified individuals are allowed to view the court file. |

| | CASE TYPE | MINIMUM RETENTION PERIOD | SPECIAL CASE TYPE CHARACTERISTICS/REFERENCES/NOTES |
|---|---|---|---|
| | | sealed under Welfare and Institutions Code section 389(c). | Refer to Welfare and Institutions Code section 827 for details regarding access to these records. |
| **(2)** | Ward under section 601 of the Welfare and Institutions Code | Upon reaching 21 years of age, or on written request, shall be released to the juvenile five years after jurisdiction over the person has terminated under Welfare and Institutions Code section 826(a). Sealed records shall be destroyed upon court order five years after the records have been sealed under Welfare and Institutions Code section 781(d). (See also Cal. Rules of Court, rule 5.840(d).) | Confidential under California Rules of Court, rule 5.552 and Welfare and Institutions Code section 827(a)(1)(A)–(T). 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, and other specified individuals, are allowed to view the court file. Refer to Welfare and Institutions Code section 827 for details regarding access to these records. |
| **(3)** | Ward under section 602 of the Welfare and Institutions Code | Upon reaching 38 years of age under Welfare and Institutions Code section 826(a). (See also Cal. Rules of Court, rule 5.840(d) [Destruction of records].)<br>Exceptions:<br>If a juvenile court record is sealed and the subject of the record was found to be a person described in section 602 because of the commission of an offense listed in section 707(b) when the person was 14 years of age or older, the record shall not be destroyed. (Welf. & Inst. Code, § 781(d).)<br>If a minor alleged to have committed an offense is prosecuted for that offense in criminal court, the person's juvenile court record for the offense may not be sealed but should be destroyed at the same time the related criminal case records are destroyed. (*Id.*, §§ 707.1(a), 781(f), 826(a).).<br>If a juvenile court orders a sustained petition dismissed, and the sustained | Confidential under California Rules of Court, rule 5.552 and Welfare and Institutions Code section 827(a)(1)(A)–(T). 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, and other specified individuals are allowed to view the court file. Refer to Welfare and Institutions Code section 827 for details regarding access to these records. |

| | CASE TYPE | MINIMUM RETENTION PERIOD | SPECIAL CASE TYPE CHARACTERISTICS/REFERENCES/NOTES |
|---|---|---|---|
| | | petition rendered the person ineligible to own or possess a firearm until 30 years of age under Penal Code section 29820, then the sealed records shall be destroyed on the date the person turns 33 years of age. | |
| **(4)** | Traffic and some nontraffic misdemeanors and infractions under section 601 of the Welfare and Institutions Code | Upon reaching 21 years of age, or five years after jurisdiction over the person has terminated under Welfare and Institutions Code section 826(c). Records may be microfilmed or photocopied. | |
| **(5)** | Marijuana misdemeanor under Health and Safety Code section 11357(d) in accordance with procedures specified in Health and Safety Code section 11361.5(a) | Upon reaching 18 years of age, the records shall be destroyed. | |
| COURT RECORDS OF THE APPELLATE DIVISION OF THE SUPERIOR COURT | | | |
| | Court records of the appellate division of the superior court | Retain five years. | |
| OTHER TRIAL COURT RECORDS | | | |
| **(1)** | Bench warrant<br><br>Bench warrant issued for a misdemeanor | Retain for the same retention period as for records in the underlying case.<br><br>Retain records for the same retention period as for records in the underlying misdemeanor following issuance. If there is no return on the warrant, court may dismiss on its own motion and immediately destroy the records. | |
| **(2)** | Body attachment | Retain for same retention period as for records in the underlying case. | |

| | CASE TYPE | MINIMUM RETENTION PERIOD | SPECIAL CASE TYPE CHARACTERISTICS/REFERENCES/NOTES |
|---|---|---|---|
| **(3)** | Bond | Retain for three years after exoneration and release. | |
| **(4)** | Court reporter notes | | |
| | (A) Criminal and juvenile proceedings | Retain notes for 10 years, except as otherwise specified. Notes reporting proceedings in capital felony cases (murder with special circumstances when the prosecution seeks the death penalty and the sentence is death), including notes reporting the preliminary hearing, shall be retained permanently, unless the Supreme Court on request of the court clerk authorizes the destruction. | |
| | (B) Civil and all other proceedings | Retain notes for five years. | |
| **(5)** | Electronic recordings made as the official record of the oral proceedings under the California Rules of Court | | |
| | (A) Infraction and misdemeanor proceedings | May be destroyed or deleted any time after final disposition of the case. | |
| | (B) All other criminal proceedings | May be destroyed or deleted after 10 years. | |
| | (C) All other proceedings | May be destroyed or deleted after 5 years. | |
| **(6)** | Electronic recordings not made as the official record of the oral proceedings under the California Rules of Court | May be destroyed at any time at the discretion of the court. | Government Code section 69957(b) allows for electronic recording of proceedings for the internal personnel purpose of monitoring the performance of subordinate judicial officers, hearing officers, and temporary judges while proceedings are conducted in the courtroom; any |

| | CASE TYPE | MINIMUM RETENTION PERIOD | SPECIAL CASE TYPE CHARACTERISTICS/REFERENCES/NOTES |
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| | | | recording made for this purpose shall be destroyed two years after the date of the proceeding unless a personnel matter is pending relating to performance of the subordinate judicial officer, hearing officer, or temporary judge. |
| **(7)** | Fee waiver applications | Retain for the same retention period as for records in the underlying case. | |
| **(8)** | Judgments within the jurisdiction of the superior court other than in a limited civil case, misdemeanor case, or infraction case | Retain permanently. | |
| **(9)** | Judgments in misdemeanor cases, infraction cases, and limited civil cases | Retain for the same retention period as for records in the underlying case. | |
| **(10)** | Juror proceedings, including sanctions | Retain one year. | See also Code of Civil Procedure section 207 ("All records and papers maintained or compiled by the jury commissioner in connection with the selection or service of a juror … shall be preserved for at least three years after the list used in their selection is prepared, or for any longer period ordered by the court or the jury commissioner"). |
| **(11)** | Minutes | Retain for the same retention period as for records in the underlying case. | |
| **(12)** | Orders not associated with an underlying case, such as orders for the destruction of court records for telephone taps, orders to destroy drugs, and other miscellaneous court orders | Retain one year. | |
| **(13)** | Naturalization index | Retain permanently. | Other naturalization records must be maintained as provided in rule 10.855 and Government Code section 68152, and should generally be retained permanently. Court clerks are prohibited from making or issuing certified copies of naturalization records absent a court order. See 8 U.S.C. § 1454(d); 8 C.F.R. § 339.3. If a court |

| | CASE TYPE | MINIMUM RETENTION PERIOD | SPECIAL CASE TYPE CHARACTERISTICS/REFERENCES/NOTES |
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| | | | orders the release of a certified copy of a naturalization record, it may have a legal duty to notify USCIS that this occurred. See 8 C.F.R. § 339.2(c). |
| **(14)** | Index for cases alleging traffic violations | Retain for the same retention period as for records in the underlying case. | |
| **(15)** | Index, except as otherwise specified | Retain permanently. | |
| **(16)** | Register of actions or docket | Retain for the same retention period as for records in the underlying case, but in no event less than 10 years for civil and small claims cases. | |

### 11.4.2 Records retention and destruction schedule for other records

This section recommends retention periods for records that are not specifically addressed in Government Code section 68152.

| CASE TYPE | RECOMMENDED RETENTION PERIOD | SPECIAL CASE TYPE CHARACTERISTICS |
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| Grand Jury Indictments under Penal Code sections 889 and 940 | Same period as period for retention of the records in the underlying case category. | Grand jury proceedings and records ordinarily are confidential. (See, e.g., Pen. Code, §§ 924, 924.1, 929, 939, 939.1.) |
| Jury Questionnaire for use in qualifying prospective jurors, under Code of Civil Procedure sections 198, 203, and 205(a) | Same period as period for retention of the records in the underlying case category. | Under Code of Civil Procedure section 237(a)(1), names of qualified jurors are available to the public on request; but under Code of Civil Procedure section 237(a)(2), personal juror identifying information must be sealed in a criminal proceeding once a jury's verdict is recorded. |
| Jury Questionnaire for use in voir dire under Code of Civil Procedure section 205(c)–(d) | Same period as period for retention of the records in the underlying case category. | Jury questionnaires are public information. Except as provided in section 10.3.1, "Confidential Records, Jury Information." |
| Probation Reports under California Rules of Court, rule 4.411 et seq. and Penal Code section 1203 et seq. (See also Pen. Code, § 1318.1 [investigative reports re "own recognizance" release].) | Same period as period for retention of the records in the underlying case category. | Under Penal Code section 1203.05, probation reports may be inspected and copied by: the public from the date judgment is pronounced or probation is granted for 60 days; by the district attorney and the defendant at any time; or by court order after 60 days. |
| Subpoenaed Records (Evid. Code, § 1560(d)) | 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; and (2) copies of subpoenaed records should be destroyed at the conclusion of trial/hearing. | |
| Wire Taps under Penal Code section 629.50 | Mandatory 10 years minimum. (See Pen. Code, § 629.66.) | Confidential under 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. |

# Appendixes

# Appendix 1: Court Records Designated Confidential by Statute or Rule

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| **GENERAL** | | | |
| 1 | Information that must be excluded from court calendars, indexes, and registers of actions | Cal. Rules of Court, rule 2.507(c)<br><br>Code Civ. Proc., § 527.6(v); Cal. Rules of Court, rule 3.1161 | "The following information must be excluded from a court's electronic calendar, index, and register of actions:<br>(1) Social security number;<br>(2) Any financial information;<br>(3) Arrest warrant information;<br>(4) Search warrant information;<br>(5) Victim information;<br>(6) Witness information;<br>(7) Ethnicity;<br>(8) Age;<br>(9) Gender;<br>(10) Government-issued identification card numbers (i.e., military);<br>(11) Driver's license number; and<br>(12) Date of birth."<br><br>Minor's name in protective order cases where a request for minor's information to be kept confidential has been granted. |
| 2 | Subpoenaed Records (Evidence Code section 1560(d)) | Evid. Code, § 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. |
| 3 | Special Immigrant Juvenile Findings | Code Civ. Proc, § 155(c) | If not otherwise protected by state confidentiality laws, information regarding the child's immigration status must remain confidential and must be available for inspection only by the court, the child who is the subject of the proceeding, the parties, the attorneys for the parties, the child's counsel, and the child's guardian. |
| **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. |

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| 2 | Application to proceed *in forma pauperis* (i.e., 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)(1) | 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)(3) | A party who intends to file with the court, for purposes of adjudication or use at trial, records produced in discovery that are subject to a confidentiality agreement or protective order, but who does not intend to request that the records be sealed, must (1) lodge the records, as well as any pleadings or other documents that disclose the contents of the records, with the court; (2) file redacted copies with the court; and (3) give written notice to the party that produced the records that the records and other lodged documents will be placed in the public court file unless that party files a timely motion or application to seal the records. 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 *in camera* 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 stated 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. |
| 8 | Records of actions brought under False Claims Act (i.e., *qui tam* actions) | Gov. 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. |

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| 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. Code, § 6205 et seq. | The Secretary of State shall keep confidential name changes because of domestic violence, stalking, sexual assault, or human trafficking. Petitions for change of name because of domestic violence, stalking, sexual assault, or human trafficking 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 | Litigants who are participants in the address confidentiality program | Code Civ. Proc., § 367.3 | A person who is an active participant in the address confidentiality program (Gov. Code, § 6205 et seq.) who is a party in a civil proceeding may proceed using a pseudonym (either John Doe, Jane Doe, or Doe) and may exclude or redact from all pleadings and documents filed in the action other identifying characteristics. "The court, on motion of the protected person, may order a record or part of a record to be filed under seal" in accordance with rules 2.550 and 2.551 of the California Rules of Court. (*Id.*, § 367.3(b)(4).) |
| 12 | All certificates of corroborative fact filed in a civil action based on childhood sexual abuse | Code Civ. Proc., § 340.1(o) | Confidential from the public *and all parties* (except the plaintiff). |
| 13 | Social security numbers (SSNs) | Cal. Rules of Court, rule 2.507(c)(1); see Gov. Code, § 68107 | California Rules of Court, rule 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.) Government Code section 68107 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." |
| 14 | 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. |

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| 15 | Information about minors in civil harassment protective orders | Code Civ. Proc., § 527.6(v); Cal. Rules of Court, rule 3.1161 | Upon request, a minor or minor's legal guardian may petition the court to have information regarding the minor that was obtained in connection with a request for a protective order kept confidential. If the court orders that information be kept confidential, the version of the document in the public file must be redacted, and an unredacted version must be maintained in a confidential file. Any documents filed in the case after the court has made an order for confidentiality must be filed with a cover sheet (form CH-175) to indicate that the case involves confidential information. |
| 16 | Information, including name, of party in an action for distribution of sexually explicit material under Civil Code section 1708.85 or an action under Civil Code section 1708.89 against any person who doxes another person with the intent to place another person in reasonable fear for their or their immediate family's safety for the purpose of imminently causing that other person unwanted contact, injury, or harassment by a third party. | Civ. Code, § 1708.85 (distribution of sexually explicit material)<br><br>Civ. Code, §1708.89 (doxing) | California Civil Code section 1708.85 provides an individual with the right to bring a private cause of action against any person who, without consent, intentionally distributes nude or sexual imagery of that individual where the person should have known that there was a reasonable expectation that the imagery would remain private and the individual suffers damages (including, for example, loss of reputation, shame, hurt feelings, and damage to profession or occupation).<br><br>The action may be brought using a pseudonym; the plaintiff shall file with the court (form MC-125), and the court shall keep the plaintiff's name and excluded or redacted characteristics confidential. All court decisions, orders, petitions, and other documents, including motions and papers filed by the parties, shall be worded so as to protect the name or other identifying characteristics of the plaintiff from public revelation so these documents are confidential.<br>Similarly, Civil Code section 1708.89 creates a private cause of action against a person who "doxes" another person by publishing personal identifying information on the internet. A plaintiff in such a case may use a pseudonym; if they do, the court is required to keep the plaintiff's name and certain characteristics confidential and, upon request, limit access to court records. |
| 17 | Capacity declarations (forms GC-335 and GC-335A) | Civ. Code, § 56.13 | If these forms are filed with or as attachments to form GC-312, they are confidential under section Probate Code section 1821(a). If filed separately, they are confidential under section 56.13 of the Civil Code. |

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| 18 | Petition for change of gender and sex identifier or petition for change of gender, sex identifier, and name filed by a person under 18 years of age or filed on or after July 1, 2026 for any petitioner, or upon order of the court for any such petition. | Health & Saf. Code, § 103437 | If a person is under 18 years of age and seeks a change of gender and sex identifier under Health and Safety Code section 103430, or a single petition for change to the petitioner's name and to recognize the change of the petitioner's gender and sex identifier under section 103435, this section provides that the petition and any papers associated with the proceeding shall be kept confidential by the courts. These provisions have been expanded to include all name and gender change petitions filed after July 1, 2026, or any petition for which a court has entered an order making them confidential. They require that access to the papers be limited while the court is acting on the petition to the petitioner, any other person who signed the petition, an individual who is subject to service of an order to show cause related to the petition, any attorney representing those individuals, and any agents acting pursuant to written authorization from those individuals or their attorneys. For a petition brought on behalf of a minor, access shall be limited to the minor subject of the petition; the minor's parents, guardians, and guardians ad litem; an individual subject to service of an order to show cause related to the petition; any attorney representing those individuals; and any agents acting pursuant to written authorization from those individuals or their attorneys. |
| 19 | CARE Act proceeding records | Welf. & Inst. Code, § 5976.5 | All reports, evaluations, diagnoses, or other information filed with the court related to the respondent's health shall be confidential.<br><br>The respondent in a CARE Act proceeding may petition the court for an order sealing records in the proceeding, as specified, and the filing of such petition would create a presumption in favor of sealing. |
| **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 section 237, where that information is in turn used to commit certain crimes. |
| 2 | Arrests and convictions for nonviolent offenses, human trafficking victims | Pen. Code, §§ 236.14, 236.15; Cal. Stds. Jud. Admin., std. 4.15(b) | A court should designate a petition for relief under Penal Code sections 236.14 and 236.15 and related filings and court records as confidential; if a court grants such a petition, it should seal all records in the case and destroy them under that section. |
| 3 | 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. |
| 4 | 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). |

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| 5 | 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. |
| 6 | 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. |
| 7 | Two specific records involving victims of identity theft:<br>(1) The police report generated on behalf of the victim under Pen. Code, § 530.6; and<br>(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. |
| 8 | 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." |
| 9 | 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 under Evidence Code sections 1043 and 1046, or as provided in Penal Code section 832.7(b). |
| 10 | 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. |
| 11 | Records of arrest | Pen. Code, § 851.8 | This section lists various provisions for sealing and destroying the arrest records of persons subsequently deemed "factually innocent." |
| 12 | 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." |

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| 13 | Records of arrest following finding of factual innocence | Pen. Code, § 851.86 | Where defendant's conviction is set aside based on a determination that he or she was factually innocent of the charge, the judge shall order that the records in the case be sealed, including any record of arrest or detention, upon the written or oral motion of any party in the case or the court, and with notice to all parties to the case. |
| 14 | Records of arrest and court files after completion of diversion program | Pen. Code, § 851.87 | A person who successfully completes a prefiling diversion program may petition the court to seal records pertaining to an arrest after successful completion of the diversion program, and the court may order those records sealed as described in Penal Code section 851.92. The sealing order has specified limitations. |
| 15 | 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 order those records pertaining to the arrest to be sealed as described in section 851.92, upon either the written or oral motion of any party in the case or upon the court's own motion, with notice to all parties. The sealing order has specified limitations. |
| 16 | Records of arrest that did not result in conviction | Pen. Code, § 851.91 | A person who suffered an arrest that did not result in a conviction may petition the court to have the arrest and related records sealed, as described in Penal Code section 851.92. The arrest and person must meet specified eligibility requirements. A court may grant as a matter of right or in the interests of justice if the arrest involves domestic violence, child abuse, or elder abuse. The sealing order has specified limitations. |
| 17 | Sealed arrest records under Pen. Code, §§ 851.87, 851.91 1000.4, and 1001.9 | Pen. Code, § 851.92 | When a court issues an order to seal an arrest, the court shall provide copies to the person whose arrest was sealed, the prosecuting attorney, and relevant law enforcement agencies. The court shall furnish a disposition report to the Department of Justice. Any court records related to the sealed arrest shall be stamped "ARREST SEALED: DO NOT RELEASE OUTSIDE OF THE CRIMINAL JUSTICE SECTOR" with the date of the sealing and the relevant section under which the arrest was sealed. This stamp and note shall be on all master court dockets, digital or otherwise, relating to the arrest. |
| 18 | Grand jury reports containing unprivileged materials and findings | Pen. Code, § 929 | This section states 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." |
| 19 | 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. |

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| 20 | 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. |
| 21 | 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).) |
| 22 | Records in substance abuse cases | Pen. Code, § 1000.4 | Upon successful completion of a pretrial diversion program, the arrest upon which defendant was diverted shall be deemed never to have occurred and the court may issue an order to seal the records pertaining to the arrest as described in section 851.92. The sealing order has specified limitations. |
| 23 | Arrest records in mental disorder diversion cases | Pen. Code, § 1001.36 | Upon successful completion of a pretrial diversion program, the court shall order access to the record of arrest restricted in accordance with Penal Code section 1001.9, below. |
| 24 | Records in misdemeanor diversion | Pen. Code, § 1001.9 | A person who successfully completes a prefiling diversion program may petition the court to seal records pertaining to an arrest after successful completion of the prefiling diversion program, and the court may order those records sealed as described in Penal Code section 851.92. The sealing order has specified limitations. |
| 25 | Records of arrest and court records following dismissal under Pen. Code, § 1170.9 | Pen. Code, § 1170.9(h)(4)(D) | When a dismissal under Penal Code section 1170.9 is granted (criminal offenses related to trauma, injury, substance abuse, or mental health problems stemming from military service), the court has the discretion to order the sealing of police records of the arrest and court records of the dismissed action, thereafter viewable by the public only in accordance with a court order. |
| 26 | 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 … ." |
| 27 | Results of mandatory AIDS testing under Pen. Code, §§ 1202.1, 1524.1 | Pen. Code, §§ 1202.1, 1524.1 | HIV test results ordered of defendants charged with certain crimes enumerated in Penal Code sections 1202.1 and 1524.1 shall be treated as confidential by the local health officer and victim. |
| 28 | Results of mandatory AIDS testing under former Pen. Code, § 1202.6(f) | Former 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."<br><br>*(Former Penal Code section 1202.6 was repealed and replaced by the current Penal Code section 1202.6, which no longer requires mandatory AIDS testing, as of January 1, 2018 (Stats. 2017, ch. 537, § 16).) |

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| 29 | 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 … ." |
| 30 | Probation reports filed with the court | Pen. Code, § 1203.05 | This section states limitations on who may inspect probation reports filed with the court, and when those reports may be inspected. |
| 31 | 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." |
| 32 | Records in grant of petition under Welf.& Inst. Code, § 781 | Pen. Code, § 1203.47 | If a petition is granted under Welfare and Institutions Code section 781, all records relating to the violation or violations of section 647(b) or section 653.22(b), or both, shall be sealed under Welfare and Institutions Code section 781. |
| 33 | 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. |
| 34 | Reports to the court regarding a criminal defendant's mental competence | Pen. Code, § 1369.5 | Establishes a presumption that documents submitted to a court under Penal Code section 1367 et seq.—including documents submitted under sections 1369, 1370, 1370.01, 1370.1, and 1372—regarding a defendant's competence are confidential |
| 35 | 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. |

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| 36 | 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. |
| 37 | State summary criminal history information (i.e., rap sheets) | Pen. Code, § 11144 | Prescribes when information from criminal histories may be disseminated without violation. |
| 38 | Local summary criminal history information (i.e., rap sheets) | Pen. Code, § 13300 | Prescribes who may have access to local summary criminal history information. |
| 39 | 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. |
| 40 | 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. |
| 41 | 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. |
| 42 | Local summary criminal history information (i.e., rap sheets) | Pen. Code, § 13305 | Prescribes when information from criminal histories may be disseminated without violation. |
| 43 | 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." |
| 44 | 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. |
| 45 | Records of specified marijuana convictions | Health & Saf. Code, § 11361.8(e), (f) | Upon application by the defendant, specified marijuana convictions meeting the requirements of section 11361.8(e) shall be redesignated by the court as a misdemeanor or infraction or dismissed and the conviction sealed as legally invalid under the Control, Regulate and Tax Adult Use of Marijuana Act. |
| 46 | Automatic reduction or dismissal of specified marijuana convictions | Health & Saf. Code, § 11361.9 | On or before July 1, 2020, the prosecution shall inform the court if they are or are not challenging a particular recall or dismissal of sentence, dismissal and sealing, or redesignation. If the prosecution does not challenge the recall or dismissal of sentence, the court shall reduce or dismiss and seal the conviction under section 11361.8. |

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| 47 | HIV test results under Health & Saf. Code, §§ 121055, 121056, and 121060 | Health & Saf. Code, § 121065 | If a court orders HIV tests under Health and Safety Code sections 121055, 121056, and 121060, the court shall order that all persons receiving the results maintain the confidentiality of personal identifying data related to the test results, except as necessary for medical or psychological care or advice. |
| 48 | Exhibits | Cal. Rules of Court, rule 2.400(c)(1) | "The clerk must not release any exhibit except on order of the court." |
| 49 | Reporters' transcripts of *Marsden* hearings | Cal. Rules of Court, rule 8.47 | "The reporter's transcript of any hearing held under *People v. Marsden* (1970) 2 Cal.3d 118 must be kept confidential." Rule 8.47 specifies that procedure that applies where a defendant on appeal raises a *Marsden* issue, or an issue related to another in-camera hearing, and requests an order maintaining the confidentiality of relevant material in a reporter's transcript. |
| 50 | Records on appeal | Cal. Rules of Court, rule 8.45–8.47 | These rules govern sealed and confidential records in appeals. |
| 51 | Criminal cases returned to juvenile court for disposition | Welf. & Inst. Code, § 707.5 | Where criminal court returns a case to juvenile court for disposition under Welfare and Institutions Code section 707, the clerk of the criminal court must "deliver to the clerk of the juvenile court all copies of the minor's record in criminal court and shall obliterate the person's name for any index maintained in the criminal court." (Welf. & Inst. Code, § 707.5(f).) The clerk of the juvenile court then must maintain the criminal court records as if they were juvenile court records until such time as it may issue an order sealing the records. (*Ibid*.) |
| 52 | Determination of an ability to pay traffic and other infractions | Form TR-320/CR-320 | This form is confidential. |
| **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. (Prob. Code, § 1821(a).) |

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| 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 under 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 under 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(d), 1826(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(b) & (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 attorney qualifications for court appointments in guardianship and conservatorship proceedings (form GC-010) | Prob. Code, §§ 1470–1471; Cal. Rules of Court, rules 7.1101–7.1105(e) | The form states that it is "confidential for court use only." Rule 7.1105(e) states that the certification "and any supporting documentation or information submitted to the court must be maintained confidentially by the court. They must not be filed or lodged in a case file." |
| 7 | *Confidential Guardianship Status Report* (form GC-251) | Prob. Code, § 1513.2(c) | A report submitted by a court-appointed guardian is confidential and must be made available only to persons served in the proceedings or their attorneys. |

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| 8 | Report of an investigation in response to an order provisionally granting a petition to transfer a conservatorship from another state | (Prob. Code, §§ 1851.1(d), 2002) | The report of an investigation in response to an order provisionally granting a petition to transfer a conservatorship from another state is also confidential. |
| **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 (e.g., parties, attorneys, law enforcement officers, judicial officers, court employees, family law facilitators of the superior court in which the action was filed, and counsel appointed for the child). |
| 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; confidentiality, and use | Fam. Code, § 3111 | Child custody evaluation reports are available only to the court, the parties, their attorneys, any other counsel appointed for the child under Family Code section 3150 and as specified in Family Court section 3111(b). |
| 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 section 1040. |
| 6 | Recommendations to court as to custody or visitation, investigation, restraining orders, and minor's counsel | Fam. Code, §§ 3183, 3184 | Child custody recommending counselor 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. |

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| 7 | Confidential mediation program | Fam. Code, § 3188 (not operative under subd. (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 obtained in a search to determine if the subject of a proposed domestic violence protective order has a prior criminal history must be kept confidential in certain circumstances (see subds. (a), (d)); the information may be reviewed or disclosed to certain persons involved in the case (subd. (d)). |
| 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. |

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| 11 | Inspection of petitions, reports, and court records and briefs | Fam. Code, § 7805 | 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:<br>(1) Court personnel.<br>(2) The child who is the subject of the proceeding.<br>(3) The parents or guardian of the child.<br>(4) The attorneys for the parties.<br>(5) Any other person designated by the judge.<br><br>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:<br>(1) Court personnel.<br>(2) A party to the proceeding.<br>(3) The attorneys for the parties.<br>(4) Any other person designated by the presiding judge of the court before which the matter is pending.<br><br>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:<br>(1) The State Department of Social Services.<br>(2) A county welfare department.<br>(3) A public welfare agency.<br>(4) A private welfare agency licensed by the State Department of Social Services. |
| 12 | 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. |
| 13 | Confidentiality | Cal. Rules of Court, rule 3.854 | This covers guidelines for mediators with respect to confidentiality. |
| 14 | 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. |
| 15 | 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. |

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| 16 | Information about minors in domestic violence protective order proceedings | Fam. Code, § 6301.5; Cal. Rules of Court, rule 5.382 | A minor or minor's legal guardian may petition the court to have information regarding a minor that was obtained in connection with a request for a domestic violence protective order kept confidential. If the court orders that information be kept confidential, the version of the document in the public file must be redacted, and an unredacted version must be maintained in a confidential file. Any documents filed in the case after the court has made an order for confidentiality must be filed with a cover sheet (form DV-175) to indicate that the case involves confidential information. |
| **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 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 records | Welf. & Inst. Code, § 781 | This section sets forth the procedure for—and consequences of—petitions for sealing juvenile records. |
| 4 | Records related to any petition dismissed under Welf. & Inst. Code, §§ 786, 793 | Welf. & Inst. Code, §§ 786, 793 | The court must order sealed all records related to any petition dismissed under Welfare and Institutions Code section 786 that are in the custody of the juvenile court, law enforcement agencies, the probation department, and the Department of Justice. The procedures for sealing these records are stated in Welfare and Institutions Code section 786. (See also Welf. & Inst. Code, § 793(c) [requiring sealing of juvenile court records following dismissal of petition where deferred entry of judgment was granted]; Cal. Rules of Court, rules 5.800(g), 5.840.) |
| 5 | 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." |
| 6 | 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. |

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| 7 | 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. |
| 8 | 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. |
| 9 | 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. |
| 10 | 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 Penal Code section 1192.7(c), and the offenses allegedly committed, upon the request of interested persons, following the minor's arrest for that offense. |
| 11 | 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 Penal Code section 667.5(c), 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. |
| 12 | 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 Welfare and Institutions Code section 827.9(b) for list of persons or entities that law enforcement may release a copy of a juvenile police record to. |
| 13 | Disclosure of information gathered by law enforcement agency; release of descriptive information about minor escapees | 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. |
| 14 | Confidentiality of records | Cal. Rules of Court, rule 5.552 | In conjunction with Welfare and Institutions Code sections 827 and 828, this rule lists the procedure for review of otherwise confidential juvenile court records. |

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| 15 | 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. |
| 16 | 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. |
| 17 | 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 under Welfare and Institutions Code section 602. |

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| 18 | Nonprivileged information and writings; disclosure among members of juvenile justice multidisciplinary team | Welf. & Inst. Code, § 830.1 | 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.<br><br>As used in this section, "nonprivileged information" means any information not subject to a privilege under division 8 (commencing with section 900) of the Evidence Code.<br><br>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 range of services related to the problems posed by juvenile crime and criminal street gangs. The team may include, but is not limited to,<br>(a) Police officers or other law enforcement agents<br>(b) Prosecutors<br>(c) Probation officers<br>(d) School district personnel with experience or training in juvenile crime or criminal street gang control<br>(e) Counseling personnel with experience or training in juvenile crime or criminal street gang control<br>(f) State, county, city, or special district recreation specialists with experience or training in juvenile crime or criminal street gang control. |

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| 19 | Immigration status | Welf. & Inst. Code, § 831 | Juvenile court records should remain confidential regardless of a juvenile's immigration status. (Welf. & Inst. Code, § 831(a).) Juvenile information may not be disclosed or disseminated to federal officials absent a court order upon filing a petition under Welfare and Institutions Code section 827(a). (*Id.*, § 831(b) & (c).) Juvenile information may not be attached to any documents given to or provided by federal officials absent prior approval of the presiding judge of the juvenile court under Welfare and Institutions Code section 827(a)(4). (*Id.*, § 831(d).) "Juvenile information" includes the "juvenile case file" as defined in Welfare and Institutions Code section 827(e), as well as information regarding the juvenile such as the juvenile's name, date or place of birth, and immigration status. (*Id.*, § 831(e).) |
| 20 | 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. |
| 21 | 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 Samples

**California Rules of Court, Rule 10.855**
**As of July 1, 2016**

| Year of filing | CALIFORNIA SUPERIOR COURTS | | |
|---|---|---|---|
| | **Group 1** | **Group 2** | **Group 3** |
| 1912 | Alpine | Placer | Kern |
| 1913 | Amador | Sutter | Monterey |
| 1914 | Del Norte | Tuolumne | Santa Clara |
| 1915 | Trinity | Yuba | Ventura |
| 1916 | Colusa | Tehama | Alameda |
| 1917 | Plumas | Siskiyou | Stanislaus |
| 1918 | Butte | Fresno | Tulare |
| 1919 | Humboldt | Yolo | Solano |
| 1920 | Mariposa | Santa Cruz | Sonoma |
| 1921 | Inyo | Lake | San Diego |
| 1922 | Glenn | Lake | San Diego |
| 1923 | Mono | Marin | Santa Barbara |
| 1924 | San Benito | Napa | San Bernardino |
| 1925 | Sierra | Mendocino | San Joaquin |
| 1926 | Imperial | Merced | San Mateo |
| 1927 | Kings | Madera | San Francisco |
| 1928 | Modoc | Shasta | Los Angeles |
| 1929 | Lassen | Contra Costa | Riverside |
| 1930 | El Dorado | Nevada | Sacramento |
| 1931 | Calaveras | San Luis Obispo | Orange |
| 1932 | Alpine | Placer | Kern |
| 1933 | Amador | Sutter | Monterey |
| 1934 | Del Norte | Tuolumne | Santa Clara |
| 1935 | Trinity | Yuba | Ventura |
| 1936 | Colusa | Tehama | Alameda |
| 1937 | Plumas | Siskiyou | Stanislaus |
| 1938 | Butte | Fresno | Tulare |
| 1939 | Humboldt | Yolo | Solano |
| 1940 | Mariposa | Santa Cruz | Sonoma |
| 1941 | Inyo | Lake | San Diego |
| 1942 | Glenn | Marin | Santa Barbara |
| 1943 | Mono | Napa | San Bernardino |

| Year of filing | CALIFORNIA SUPERIOR COURTS | | |
|---|---|---|---|
| | **Group 1** | **Group 2** | **Group 3** |
| 1944 | San Benito | Mendocino | San Joaquin |
| 1945 | Sierra | Merced | San Mateo |
| 1946 | Imperial | Madera | San Francisco |
| 1947 | Kings | Shasta | Los Angeles |
| 1948 | Modoc | Contra Costa | Riverside |
| 1949 | Lassen | Nevada | Sacramento |
| 1950 | El Dorado | San Luis Obispo | Orange |
| 1951 | Calaveras | Placer | Kern |
| 1952 | Alpine | Sutter | Monterey |
| 1953 | Amador | Tuolumne | Santa Clara |
| 1954 | Del Norte | Yuba | Ventura |
| 1955 | Trinity | Tehama | Alameda |
| 1956 | Colusa | Siskiyou | Stanislaus |
| 1957 | Plumas | Fresno | Tulare |
| 1958 | Butte | Yolo | Solano |
| 1959 | Humboldt | Santa Cruz | Sonoma |
| 1960 | Mariposa | Lake | San Diego |
| 1961 | Inyo | Marin | Santa Barbara |
| 1962 | Glenn | Napa | San Bernardino |
| 1963 | Mono | Mendocino | San Joaquin |
| 1964 | San Benito | Merced | San Mateo |
| 1965 | Sierra | Madera | San Francisco |
| 1966 | Imperial | Shasta | Los Angeles |
| 1967 | Kings | Contra Costa | Riverside |
| 1968 | Modoc | Nevada | Sacramento |
| 1969 | Lassen | San Luis Obispo | Orange |
| 1970 | El Dorado | Placer | Kern |
| 1971 | Calaveras | Sutter | Monterey |
| 1972 | Alpine | Tuolumne | Santa Clara |
| 1973 | Amador | Yuba | Ventura |
| 1974 | Del Norte | Tehama | Alameda |
| 1975 | Trinity | Siskiyou | Stanislaus |
| 1976 | Colusa | Fresno | Tulare |
| 1977 | Plumas | Yolo | Solano |
| 1978 | Butte | Santa Cruz | Sonoma |
| 1979 | Humboldt | Lake | San Diego |
| 1980 | Mariposa | Marin | Santa Barbara |

| Year of filing | CALIFORNIA SUPERIOR COURTS | | |
|---|---|---|---|
| | **Group 1** | **Group 2** | **Group 3** |
| 1981 | Inyo | Napa | San Bernardino |
| 1982 | Glenn | Mendocino | San Joaquin |
| 1983 | Mono | Merced | San Mateo |
| 1984 | San Benito | Madera | San Francisco |
| 1985 | Sierra | Shasta | Los Angeles |
| 1986 | Imperial | Contra Costa | Riverside |
| 1987 | Kings | Nevada | Sacramento |
| 1988 | Modoc | San Luis Obispo | Orange |
| 1989 | Lassen | Placer | Kern |
| 1990 | El Dorado | Sutter | Monterey |
| 1991 | Calaveras | Tuolumne | Santa Clara |
| 1992 | Alpine | Yuba | Ventura |
| 1993 | Amador | Tehama | Alameda |
| 1994 | Del Norte | Siskiyou | Stanislaus |
| 1995 | Trinity | Fresno | Tulare |
| 1996 | Colusa | Yolo | Solano |
| 1997 | Plumas | Santa Cruz | Sonoma |
| 1998 | Butte | Lake | San Diego |
| 1999 | Humboldt | Marin | Santa Barbara |
| 2000 | Mariposa | Napa | San Bernardino |
| 2001 | Inyo | Mendocino | San Joaquin |
| 2002 | Glenn | Merced | San Mateo |
| 2003 | Mono | Madera | San Francisco |
| 2004 | San Benito | Shasta | Los Angeles |
| 2005 | Sierra | Contra Costa | Riverside |
| 2006 | Imperial | Nevada | Sacramento |
| 2007 | Kings | San Luis Obispo | Orange |
| 2008 | Modoc | Placer | Kern |
| 2009 | Lassen | Sutter | Monterey |
| 2010 | El Dorado | Tuolumne | Santa Clara |
| 2011 | Calaveras | Yuba | Ventura |
| 2012 | Alpine | Tehama | Sonoma |
| 2013 | Amador | Siskiyou | Stanislaus |
| 2014 | Colusa | Santa Cruz | Tulare |
| 2015 | Trinity | Yolo | Solano |
| 2016 | Del Norte | Fresno | Alameda |
| 2017 | Plumas | Lake | San Diego |

| Year of filing | CALIFORNIA SUPERIOR COURTS | | |
|---|---|---|---|
| | **Group 1** | **Group 2** | **Group 3** |
| 2018 | Butte | Marin | Santa Barbara |
| 2019 | Humboldt | Napa | San Bernardino |
| 2020 | Mariposa | Mendocino | San Joaquin |
| 2021 | Inyo | Merced | San Mateo |
| 2022 | Glenn | Madera | San Francisco |
| 2023 | Mono | Shasta | Los Angeles |
| 2024 | San Benito | Contra Costa | Riverside |
| 2025 | Sierra | Nevada | Sacramento |
| 2026 | Imperial | San Luis Obispo | Orange |
| 2027 | Kings | Placer | Kern |
| 2028 | Modoc | Sutter | Monterey |
| 2029 | Lassen | Tuolumne | Santa Clara |
| 2030 | El Dorado | Yuba | Ventura |
| 2031 | Calaveras | Tehama | Alameda |
| 2032 | Alpine | Siskiyou | Stanislaus |
| 2033 | Amador | Fresno | Tulare |
| 2034 | Del Norte | Yolo | Solano |
| 2035 | Trinity | Santa Cruz | Sonoma |
| 2036 | Colusa | Lake | San Diego |
| 2037 | Plumas | Marin | Santa Barbara |
| 2038 | Butte | Napa | San Bernardino |
| 2039 | Humboldt | Mendocino | San Joaquin |
| 2040 | Mariposa | Merced | San Mateo |
| 2041 | Inyo | Madera | San Francisco |
| 2042 | Glenn | Shasta | Los Angeles |
| 2043 | Mono | Contra Costa | Riverside |
| 2044 | San Benito | Nevada | Sacramento |
| 2045 | Sierra | San Luis Obispo | Orange |
| 2046 | Imperial | Placer | Kern |
| 2047 | Kings | Sutter | Monterey |
| 2048 | Modoc | Tuolumne | Santa Clara |
| 2049 | Lassen | Yuba | Ventura |
| 2050 | El Dorado | Tehama | Alameda |
| 2051 | Calaveras | Siskiyou | Stanislaus |
| 2052 | Alpine | Fresno | Tulare |
| 2053 | Amador | Yolo | Solano |
| 2054 | Del Norte | Santa Cruz | Sonoma |

| Year of filing | CALIFORNIA SUPERIOR COURTS | | |
|---|---|---|---|
| | **Group 1** | **Group 2** | **Group 3** |
| 2055 | Trinity | Lake | San Diego |
| 2056 | Colusa | Marin | Santa Barbara |

# Appendix 3: Recommended Methods of Exhibit Disposal

| Exhibit type | Examples | Disposition authority | Recommended method of disposal |
|---|---|---|---|
| Paper | Paper documents, photos | Penal Code section 1417 et. seq. or Code of Civil Procedure section 1952 | Shred or place in designated shredder bins. |
| Unclaimed nonvaluable property | Items with no resale value—old clothes, small objects, etc. | Penal Code section 1417.5(c)(3) | If unclaimed property has no value, it may be destroyed by court by placing it in trash bins. |
| Weapons | Handguns/shoulder weapons, semiautomatic firearms, knives, truncheons, etc. | Typically, this is addressed in a local rule, standing order, or contract/agreement with law enforcement or other agency (Pen. Code, § 1417.6) | These objects must be completely destroyed/disintegrated. Court should work with local law enforcement partners on method of storing, transferring, and destroying weapons. |
| Ammunition | Bullets, live rounds, explosives, etc. | Typically, this is addressed in a local rule, standing order, or contract/agreement with law enforcement or other agency (Pen. Code, § 1417.6) | Court should work with local law enforcement partners on method of storing and transferring ammunition. |
| Human body parts and fluids | Blood, rape kits, semen, teeth, bones, DNA samples, etc. | Typically, this is addressed in a local rule, standing order, or contract/agreement with law enforcement or other agency (Pen. Code, § 1417.9(a)) | Court should work with local law enforcement partners on method of storing and transferring these items. |
| Toxic materials | Biohazards | Penal Code section 1417.3(b) | Usually, these exhibits are just presented as photos. If the toxic material is brought to the court, the person or persons presenting the exhibit shall be required to take responsibility for it, and court shall not store it. |
| License plates | | | Transfer to the Department of Motor Vehicles for destruction. |
| Passports | | | Mail to:<br>U.S. Department of State<br>CA/PPT/S/L<br>Attn: Office of Legal Affairs<br>44132 Mercure Cir<br>P.O. Box 1150<br>Sterling, VA 20166 |

| Exhibit type | Examples | Disposition authority | Recommended method of disposal |
|---|---|---|---|
| Narcotics, other illicit drugs, and paraphernalia | Heroin, fentanyl, methamphetamines, cannabis, cocaine, and drugs that may be legal but were not prescribed | Typically, this is addressed in a local rule, standing order, or contract/agreement with law enforcement or other agency | Court should work with local partners on method of storing, transferring, and destroying narcotics, other drugs, and paraphernalia. |
| Currency | Paper or coin currency that the court and charging agency do not know the rightful owner of | Penal Code sections 1420–1422 | Court should transfer the unclaimed funds to the county treasury. The county will hold the funds for two years and then must publish a notice of the unclaimed funds. After 45 days, the funds will become the property of the county if unclaimed. |
| Unclaimed valuable property | Jewelry, artworks, collectibles with value such as coin or stamp collections, etc. | Penal Code section 1417.5(c)(2) | Court should transfer valuable unclaimed property to the county for public sale, public auction, or use by the county. |
| Exhibits in death penalty cases | All case-related exhibits | Penal Code section 1417.1(d)(1) | Maintain all exhibits until 30 days after the death penalty has been executed. If the defendant dies before execution, destroy one year after the defendant's death. |