

**Records Retention Revision Committee of the Superior Court  
MINUTES**

**Friday, May 16, 2014**

**10:00 a.m. to 3:00 p.m.**

**State Courts Building, 1501 W. Washington Street, Conf. Rm. 119A/B, Phoenix, AZ 85007**

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**Present:** Judge Pamela Gates (Chair), Shelly Bacon, proxy for Eric Silverberg, James Boardman, Judge Jane Eikleberry, Melanie Fay, Judge David Haws, Judge Lee Jantzen, Phil Knox, Chad Roche, Melanie Sturgeon

**Absent/Excused:** Terri Bublik, Michael Catlett

**Staff:** Melinda Hardman, Julie Graber

**Presenters/Guests:** Theresa Barrett (AOC), Denise Lundin (AOC)

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Call to Order/Welcome and Introductions

With a quorum present, the May 16, 2014, meeting of the Records Retention Revision Committee of the Superior Court was called to order by Judge Pamela Gates, chair at 10:00 a.m. Judge Gates welcomed members and held a moment of silence to remember Sandra Markham.

Approval of Minutes

Judge Gates presented the April 4, 2014, Records Retention Revision Committee of the Superior Court meeting minutes for approval.

**Motion:** To approve the April 4, 2014, meeting minutes, as presented. **Action:** Approve, **Moved by** Phil Knox, **Seconded by** Judge Lee Jantzen. Motion passed unanimously.

Review of Continuing Draft Modifications to ACJA § 3-402: Superior Court Records Retention and Disposition Schedule

Melinda Hardman, AOC, discussed the changes made to the draft records retention schedule code section as a result of the committee's decisions made at their last meeting, including new language in the Clerk of Court and the Court Administration Financials sections, revised language in the jury commissioner records section, and clarified language in the historically significant and landmark case section.

**A. Definitions**

1. "Case data" – The definition of *case data* was added to section A(1), based on use of the term in section B(3). No changes were recommended.
2. "Case file" – Ms. Hardman asked whether the definition of *case file* should include case financial records. The consensus of the committee was that the inclusion of case financial records should be removed, since case financial information generally appears in the case management system, not in the case file.

**Motion:** To strike “includes case financial records, such as defendant payment records” from the last sentence of *case file* definition. **Moved by** Judge Lee Jantzen, **Seconded by** Chad Roche. Motion passed unanimously.

## **B. General Provisions**

1. Permanent Records – Ms. Hardman asked whether the “case docket and register of actions” should be identified in B(1) as records that must be transferred to LAPR unless otherwise instructed. Dr. Sturgeon stated that she recognized that it sometimes places a burden on a court to have to send the register of actions to LAPR with the case file. She suggested making this act permissive.

**Motion:** To change the language to “clerks *may* transfer the register of actions.” **Moved by** Chad Roche, **Seconded by** Melanie Sturgeon. Motion passed unanimously.

## **D. Retention and disposition schedule**

- Demand for notice case files – Ms. Hardman questioned whether the proposed 2-year retention period was correct for these cases if they actually are *civil* cases. A member noted that demand for notice cases are docketed either as civil or probate depending on the local court. Members agreed that this category should be removed so that each individual court can identify where these cases should fall, e.g. civil or probate.

**Motion:** To remove item #6 (demand for notice case files) from the retention schedule. **Moved by** Judge Lee Jantzen. **Seconded by** Chad Roche. Motion passed unanimously.

## **Miscellaneous and Financial Records Held by the Clerk of Court**

- Case financial records, not part of a case file – Ms. Hardman added a new financial records section using examples and language from other states because this category was not addressed in the current schedule.
- Ms. Hardman asked members whether there was a need to include subsection (e) since it *is* a case financial and must be retained for the life of the case. The consensus of the committee was that subsections (d) and (e) were not needed and should be removed. A footnote should be added at the records series title indicating that this category does not include clerks’ working files, which may be destroyed when the reference value has been served.

**Motion:** To remove subsections (d) and (e); and to add a footnote after the records series title “Case financial records, not part of a case file” indicating that “This category does not include clerks’ working files, which may be destroyed when the reference value has been served. **Moved by** Judge Lee Jantzen, **Seconded by** Phil Knox. Motion passed unanimously.

- A member suggested that language from ACJA § 1-401: Minimum Accounting Standards (“MAS”) be incorporated by reference in subsection (a); however, another member noted that in section (L)(3), MAS requires a court to retain bank account information *per the*

*records retention schedule.* The consensus of the committee was to mirror the MAS language from (L)(3)(a)—(h) in subsection (a) of the records retention schedule; to keep subsection (b) in its current form; and to modify the retention period in subsection (c) to 5 years to bring consistency to the section.

**Motion:** To mirror MAS language from (L)(3)(a)—(h) in subsection (a); to keep subsection (b) in its current form; and to modify the retention period to 5 years in subsection (c). **Moved by** Chad Roche, **Seconded by** James Boardman. Motion passed unanimously.

- Warrants and subpoenas that are not part of a case file set forth above – Ms. Hardman questioned whether the retention period should be 1 year following the date *served* instead of the date *filed*. A member noted that some warrants are not filed and some expire pursuant to statute. Members agreed to change date *filed* to date *served*.

**Motion:** To change date *filed* to date *served*. **Moved by** Judge Lee Jantzen, **Seconded by** Phil Knox. Motion passed unanimously.

- Exhibits submitted at trial or hearing in any case type – Dr. Sturgeon stated that she recognized it would be a burden if clerks are required to transfer exhibits in all cases to LAPR. She suggested that clerks transfer exhibits only in historically significant and landmark cases. After discussion, the consensus of the committee was to rename this Exhibits category to reflect that historically significant and landmark cases are not included; to add a footnote referencing subpart (E) with language still to be determined; and to line up the existing retention period for exhibits with the applicable case type.

**Motion:** To add the phrase “other than historically significant and landmark cases” at the end of the records series title; to add a footnote to the title referring to subpart (E), “historically significant and landmark cases” with language to be proposed, and associate the retention period for exhibits with the corresponding case type. **Moved by** Judge Lee Jantzen, **Seconded by** James Boardman. Motion passed unanimously.

- Case docket or register of actions – Dr. Sturgeon agreed that the transfer of these records should be discretionary (see 2. General Provisions) so in the Remarks field, the language should be revised to provide that clerks *may* transfer the case docket or register of actions to LAPR with the corresponding case file.
- Marriage affidavits – Dr. Sturgeon noted that these records must be retained permanently but suggested adding in the Remarks field that these records may also be transferred to LAPR. She receives many requests for these records. A member suggested including a trigger point for clerks to consider transferring these records, which sparked an extensive discussion on whether a timeframe for clerk retention was appropriate, and if so, how long the timeframe should be. The consensus of the committee was that a specific timeframe within which clerks must transfer these records to LAPR was not appropriate, because clerks can retain these records permanently with the court. A clerk’s decision to transfer or not transfer marriage records is a clerk policy issue, which goes beyond the scope of this committee.

**Motion:** To amend the retention period with the court to “These records are permanent. The Clerk may transfer these records to LAPR at any time deemed appropriate by the clerk.” **Moved by** Judge David Haws, **Seconded by** James Boardman. Motion passed unanimously.

- Public official financial disclosure statement – Ms. Hardman indicated that she researched the period of time financial disclosure statements are retained by the Secretary of State’s Office. This retention period is 10 years, so 10 years is an appropriate retention period for the courts as well.
- Special appointment applications – Ms. Fay noted that Maricopa County uses an application process to appoint special deputies, for example, to certify court records, issue marriage certificates, and sign satisfactions of judgment on behalf of the clerk. Mr. Roche noted that his county appoints special deputies by administrative order. Members agreed that the retention period for special appointment applications should be modified to “Until reference value served” for those counties that use special appointment applications.

**Motion:** To modify the retention period to “Until reference value served” for counties that use special appointment applications. **Moved by** Melanie Fay, **Seconded by** Chad Roche. Motion passed unanimously.

#### **Miscellaneous Records Held by Either the Clerk of Court or Court Administration**

- Ms. Hardman questioned whether court reporter notes must be retained *for 10 years from the date of sentencing* even after a transcript is prepared for criminal, non-capital cases. A member noted that the 10-year retention period originated from court reporters to avoid recreating a record when a defendant was tried, convicted, and reappeared after the court reporter notes were already destroyed. Several members were concerned about creating an administrative vulnerability for individual courts if the retention period is based on *the date of sentencing*, because courts would need to notify court reporters of the defendant’s date of sentencing and provide training and education to court reporters so they do not assume the retention period is based on the date of proceeding. After much discussion, the consensus of the committee was that, to lessen the administrative issues for courts, the retention period for court reporter notes should be increased to *20 years from the date of sentencing or other order of the court*, even after a transcript is prepared. A member questioned whether court reporter notes need to be retained for *20 years even after a transcript is prepared*. Members agreed to change “even after a transcript is prepared” to “unless a transcript is prepared.”

**Motion:** (1) To modify the retention period with the court for “the verbatim record” in criminal non-capital cases to “20 years from the date of sentencing or other order of the court unless a transcript is prepared”; and (2) to modify the Remarks field to reflect that “Court reporter notes must be retained for 20 years from the date of sentencing or other order of the court unless a transcript is prepared.” **Moved by** James Boardman, **Seconded by** Judge Lee Jantzen. Motion passed unanimously.

- A member questioned the name of the section heading for court reporter notes, because court reporters may be part of the court or court administration; however court reporters are never employed by the clerk of court. The consensus of the committee was to rename this section heading to “Miscellaneous Records Held by the Court, Clerk of Court, or Court Administration.”

**Motion:** To rename the section heading to “Miscellaneous Records Held by the Court, Clerk of Court, or Court Administration.” **Moved by Phil Knox, Seconded by Judge Lee Jantzen.** Motion passed unanimously.

### **Court Administration, Including Financial, Records**

- Triennial, external review report required by the minimum accounting standards – Members agreed that the retention period with the court should be “Until a subsequent audit report is filed.”
- Applications, records, and reports for grants received – A member asked whether the retention period for these records should be increased, since federal grants must usually be retained longer than 3 years. The consensus of the committee was that the phrase “unless otherwise required by the granting agency” should be added to the retention period.
- A member suggested that the retention periods should be more consistent by retaining (c) and (d) for the same time period as subsections (a) and (b). Members agreed that periodic summary budget reports and periodic financial reports to state and local agencies should be retained for 5 years instead of 3 years to simplify the section.

**Motion:** To modify the retention period for (c) and (d) to “5 years after the fiscal year prepared”; to modify the retention period for (e) to “Until subsequent audit report filed”; and to add to (f) “unless otherwise required by the granting agency.” **Moved by Phil Knox, Seconded by Chad Roche.** Motion passed unanimously.

- A member questioned why subsections (e) and (g) were not covered in the “Miscellaneous and Financial Records Held by the Clerk of Court” section. The consensus of the committee was that these subsections should be covered in both sections.

**Motion:** To add subsections (e) and (g) to the section “Miscellaneous and Financial Records Held by the Clerk of Court.” **Moved by Chad Roche, Seconded by Melanie Fay.** Motion passed unanimously.

- Contracts, including a memorandum of understanding, joint operating agreement, intergovernmental or interagency agreement, and contract of employment – A member noted that “contracts” is used as a term of art and the examples listed are not actual contracts. The consensus of the committee was to rename the section “Contracts and other agreements” and strike the list of examples.

**Motion:** To rename the section “Contracts and Other Agreements” and strike the examples.  
**Moved by** Phil Knox, **Seconded by** Judge Lee Jantzen. Motion passed unanimously.

- Administrative orders – Members agreed that “Administrative orders” should be moved from this section to the “Miscellaneous and Financial Records Held by the Clerk of Court” section, and that the phrase “Clerks may transfer administrative orders to LAPR” should be added in the Remarks field of the schedule.

**Motion:** To relocate “Administrative orders” to the “Miscellaneous and Financial Records Held by the Clerk of Court” section and add the phrase “Clerks may transfer administrative orders to LAPR” in the Remarks field. **Moved by** Melanie Sturgeon, **Seconded by** James Boardman. Motion passed unanimously.

### **Records Held by the Jury Commissioner**

- Ms. Hardman noted that the proposed revisions to this section reflect feedback received from jury personnel during their last quarterly conference call.
- Jury personnel suggested that completed juror questionnaires should be retained 90 days from the date received when courts send the jury questionnaire with the summons and 1 year from the date received when the juror questionnaire and summons are sent separately.
- Jury personnel suggested adding a category for “completed juror biographical forms,” which should be retained until completion of trial.
- Ms. Hardman suggested including a new category for juror data that would allow the AOC to delete information stored on AOC servers once the reference value has been served. The committee agreed to add a category named “juror data” with a retention period of 3 years from the date received. Ms. Hardman will propose language at the next meeting for the committee’s consideration.

### **Records Held by the Court Human Resources Department**

- Ms. Hardman will prepare language for the next meeting.

### **Case Files Held by Pretrial Services**

- Leave as is.

### **Records Held by Adult Probation and Records Held by Juvenile Probation**

- These items are tabled pending a final decision by the AOC on whether to remove these records from this retention schedule.

### **Historically Significant and Landmark Cases**

- Ms. Hardman and Dr. Sturgeon presented revised language for the historically significant and landmark case section to bring consistency between the retention schedules in limited

and general jurisdiction courts. Dr. Sturgeon explained that a new requirement was added in (E)(2)(a)(8) so that cases that are the subject of a published opinion of the U. S. Supreme Court will also require a statewide or national impact before being designated as a landmark case. Currently, LAPR receives an overwhelming number of U. S. Supreme Court cases.

- Ms. Hardman questioned whether a case designated as historically significant or landmark should be transferred to LAPR *immediately* after the motion is granted or whether the appeal process must first be completed. Dr. Sturgeon explained that LAPR would prefer the immediate transfer of these records so they are not accidentally misplaced or lost. The consensus of the committee was that historically significant cases should be transferred to LAPR within 90 days of the case's final disposition. In landmark cases, the designation is done retrospectively, so modified language is not needed.

**Motion:** To transfer records designated as historically significant to LAPR within 90 days of the case's final disposition. **Moved by** Judge Jane Eikleberry, **Seconded by** Melanie Fay. Motion passed unanimously.

- A member noted that "historically significant" should be replaced with "landmark" in the last sentence of (E)(2)(c).

#### **Additional comments and discussion**

- A member asked about the use of "N/A" throughout the retention schedule in the "Retention at LAPR" column, and whether this should be defined or made more explicit. The consensus of the committee was that a global footnote should be included in the retention schedule with an explanation that "N/A" means the court can destroy the record.

**Motion:** To include a global footnote in the retention schedule specifying that "N/A" means that a record can be destroyed. **Moved by** Phil Knox, **Seconded by** Judge Lee Jantzen. Motion passed unanimously.

#### Next Meeting Date

June 18, 2014, 10:00 a.m. to 3:00 p.m.  
Arizona State Courts Building, Conference Room 119A/B

#### Good of the Order/Call to the Public

None present.

Adjourned at 1:33 p.m.