



# Superior Court of California County of Orange

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January 13, 2004

## NOTICE OF DESTRUCTION OF COURT RECORDS PURSUANT TO GOVERNMENT CODE SECTION 68152

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

The clerk's office will commence destruction of court records pursuant to the order of the Presiding Judge which is attached to this notice.



# Superior Court of California County of Orange

Chambers of  
**Frederick Horn**  
Presiding Judge

700 Civic Center Drive West  
Santa Ana, CA 92701  
PHONE: (714) 834-7413

## ORDER FOR DESTRUCTION OF COURT RECORDS Government Code Section 68153

IT IS ORDERED that all court records open for public inspection that are not ordered transferred under California Rule of Court 6.756 or that are not subject to the Superior Court Sampling Program under California Rule of Court 6.755, and those confidential records and sealed records that are eligible for destruction under Government Code Section 68152, shall be destroyed subject to the retention periods and notice provisions set forth in the applicable codes, except those records preserved in an electronic format.

Court records shall consist of the following:

- (1) All filed papers and documents in the case folder; but if no case folder is created by the court, all filed papers and documents that would have been in the case folder, if one had been created.
- (2) Administrative records filed in an action or proceeding, depositions, paper exhibits, transcripts, including preliminary hearing transcripts, and tapes of electronically recorded proceedings filed, lodged, or maintained in connection with the case, unless disposed of earlier in the case pursuant to law.
- (3) Other records listed under subdivision (j) of the Government Code Section 68152.

Destruction shall be by shredding. The clerk is further instructed to make a notation of the date of destruction on the index of cases or on a separate destruction index.

This order will remain in effect until December 31, 2004. A copy of this order will be kept at each Justice Center.

Dated: January 13, 2004

/s/ (CJC-Records Mgmt.)

**Frederick P. Horn**  
Presiding Judge

Attachment: California Government Code Sections 68150 et seq., California Civil Procedure Section 1952, California Penal Code Section 1417 et seq.

## GOVERNMENT CODE SECTION 68150

### **§68150. Preservation of trial court records; standards; copies; storage; accessibility of records**

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

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

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

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

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

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

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

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

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

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

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

## GOVERNMENT CODE SECTION 68151

### § 68151. Definitions

The following definitions apply to this chapter:

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

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

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

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

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

(c) "Final disposition of the case" means that an acquittal, dismissal, or order of judgment has been entered in the case or proceeding, the judgment has become final, and no postjudgment motions or appeals are pending in the case or for the reviewing court upon the mailing of notice of the issuance of the remittitur. In a criminal prosecution, the order of judgment shall mean imposition of sentence, entry of an appealable order (including, but not limited to, an order granting probation, commitment of a defendant for insanity, or commitment of a defendant as a narcotics addict appealable under Section 1237 of the Penal Code), or forfeiture of bail without issuance of a bench warrant or calendaring of other proceedings.

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

## GOVERNMENT CODE SECTION 68152

### § 68152. Destruction of records; notice; retention periods

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

- (a) Adoption: retain permanently.
- (b) Change of name: retain permanently.
- (c) Other civil actions and proceedings, as follows:
  - (1) Except as otherwise specified: 10 years.
  - (2) Where a party appears by a guardian ad litem: 10 years after termination of the court's jurisdiction.
  - (3) Domestic violence: same period as duration of the restraining or other orders and any renewals, then retain the restraining or other orders as a judgment; 60 days after expiration of the temporary protective or temporary restraining order.
  - (4) Eminent domain: retain permanently.
  - (5) Family law, except as otherwise specified: 30 years.
  - (6) Harassment: same period as duration of the injunction and any renewals, then retain the injunction as a judgment; 60 days after expiration of the temporary restraining order.
  - (7) Mental health (Lanterman Developmental Disabilities Services Act and Lanterman-Petris-Short Act): 30 years.
  - (8) Paternity: retain permanently.
  - (9) Petition, except as otherwise specified: 10 years.
  - (10) Real property other than unlawful detainer: retain permanently if the action affects title or an interest in real property.
  - (11) Small claims: 10 years.
  - (12) Unlawful detainer: one year if judgment is for possession of the premises; 10 years if judgment is for money.
- (d) Notwithstanding subdivision (c), any civil or small claims case in the trial court:
  - (1) Involuntarily dismissed by the court for delay in prosecution or failure to comply with state or local rules: one year.
  - (2) Voluntarily dismissed by a party without entry of judgment: one year.Notation of the dismissal shall be made on the civil index of cases or on a separate dismissal index.
- (e) Criminal.
  - (1) Capital felony (murder with special circumstances where the prosecution seeks the death penalty): retain permanently. If the charge is disposed of by acquittal or a sentence less than death, the case shall be reclassified.
  - (2) Felony, except as otherwise specified: 75 years.
  - (3) Felony, except capital felony, with court records from the initial complaint through the preliminary hearing or plea and for which the case file does not include final sentencing or other final disposition of the case because the case was bound over to the superior court: five years.
  - (4) Misdemeanor, except as otherwise specified: five years.
  - (5) Misdemeanor alleging a violation of the Vehicle Code, except as otherwise specified: three years.
  - (6) Misdemeanor alleging a violation of Section 23103, 23152, or 23153 of the Vehicle Code: seven years.
  - (7) Misdemeanor alleging a violation of Section 14601, 14601.1, 20002, 23104, or 23109 of the Vehicle Code: five years.
  - (8) Misdemeanor alleging a marijuana violation under subdivision (b), (c), (d), or (e) of Section 11357 of the Health and Safety Code, or subdivision (b) of Section 11360 of the Health and Safety Code in accordance with the procedure set forth in Section 11361.5 of the Health and Safety Code: records shall be destroyed two years from the date of conviction or from the date of arrest if no conviction.
  - (9) Misdemeanor, infraction, or civil action alleging a violation of the regulation and licensing of dogs under Sections 30951 to 30956, inclusive, of the Food and Agricultural Code or violation of any other local ordinance: three years.

- (10) Infraction, except as otherwise specified: three years.
- (11) Parking infractions, including alleged violations under the stopping, standing, and parking provisions set forth in Chapter 9 (commencing with Section 22500) of Division 11 of the Vehicle Code: two years.
- (f) Habeas corpus: same period as period for retention of the records in the underlying case category.
- (g) Juvenile.
- (1) Dependent (Section 300 of the Welfare and Institutions Code): upon reaching age 28 or on written request shall be released to the juvenile five years after jurisdiction over the person has terminated under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be destroyed upon court order five years after the records have been sealed pursuant to subdivision (c) of Section 389 of the Welfare and Institutions Code.
- (2) Ward (Section 601 of the Welfare and Institutions Code): upon reaching age 21 or on written request shall be released to the juvenile five years after jurisdiction over the person has terminated under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be destroyed upon court order five years after the records have been sealed under subdivision (d) of Section 781 of the Welfare and Institutions Code.
- (3) Ward (Section 602 of the Welfare and Institutions Code): upon reaching age 38 under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be destroyed upon court order when the subject of the record reaches the age of 38 under subdivision (d) of Section 781 of the Welfare and Institutions Code.
- (4) Traffic and some nontraffic misdemeanors and infractions (Section 601 of the Welfare and Institutions Code): upon reaching age 21 or five years after jurisdiction over the person has terminated under subdivision (c) of Section 826 of the Welfare and Institutions Code. May be microfilmed or photocopied.
- (5) Marijuana misdemeanor under subdivision (e) of Section 11357 of the Health and Safety Code in accordance with procedures specified in subdivision (a) of Section 11361.5 of the Health and Safety Code: upon reaching age 18 the records shall be destroyed.
- (h) Probate.
- (1) Conservatorship: 10 years after decree of termination.
- (2) Guardianship: 10 years after the age of 18.
- (3) Probate, including probated wills, except as otherwise specified: retain permanently.
- (i) Court records of the appellate division of the superior court: five years.
- (j) Other records.
- (1) Applications in forma pauperis: any time after the disposition of the underlying case.
- (2) Arrest warrant: same period as period for retention of the records in the underlying case category.
- (3) Bench warrant: same period as period for retention of the records in the underlying case category.
- (4) Bond: three years after exoneration and release.
- (5) Coroner's inquest report: same period as period for retention of the records in the underlying case category; if no case, then permanent.
- (6) Court orders not associated with an underlying case, such as orders for destruction of court records for telephone taps, or to destroy drugs, and other miscellaneous court orders: three years.
- (7) Court reporter notes: 10 years after the notes have been taken in criminal and juvenile proceedings and five years after the notes have been taken in all other proceedings, except notes reporting proceedings in capital felony cases (murder with special circumstances where the prosecution seeks the death penalty and the sentence is death), including notes reporting the preliminary hearing, which shall be retained permanently, unless the Supreme Court on request of the court clerk authorizes the destruction.
- (8) Electronic recordings made as the official record of the oral proceedings under the California

Rules of Court: any time after final disposition of the case in infraction and misdemeanor proceedings, 10 years in all other criminal proceedings, and five years in all other proceedings.

(9) Electronic recordings not made as the official record of the oral proceedings under the California Rules of Court: any time either before or after final disposition of the case.

(10) Index, except as otherwise specified: retain permanently.

(11) Index for cases alleging traffic violations: same period as period for retention of the records in the underlying case category.

(12) Judgments within the jurisdiction of the superior court other than in a limited civil case: retain permanently.

(13) Judgments within the jurisdiction of the municipal court or of the superior court in a limited civil case: same period as period for retention of the records in the underlying case category.

(14) Minutes: same period as period for retention of the records in the underlying case category.

(15) Naturalization index: retain permanently.

(16) Ninety-day evaluation (under Section 1203.03 of the Penal Code): same period as period for retention of the records in the underlying case category, or period for completion or termination of probation, whichever is longer.

(17) Register of actions or docket: same period as period for retention of the records in the underlying case category, but in no event less than 10 years for civil and small claims cases.

(18) Search warrant: 10 years, except search warrants issued in connection with a capital felony case defined in paragraph (7), which shall be retained permanently.

(k) Retention of any of the court records under this section shall be extended as follows:

(1) By order of the court on its own motion, or on application of a party or any interested member of the public for good cause shown and on such terms as are just. No fee shall be charged for making the application.

(2) Upon application and order for renewal of the judgment to the extended time for enforcing the judgment.

## **CIVIL CODE PROCEDURE SECTION 1952.3**

### **CA CIV PRO § 1952.3**

#### **Destruction or other disposition of exhibits, depositions, or administrative records; notice requesting preservation; sealed files**

Notwithstanding any other provision of the law, the court, on its own motion, may order the destruction or other disposition of any exhibit, deposition, or administrative record introduced in the trial or posttrial hearing of a civil action or proceeding or filed in the action or proceeding that, if appeal has not been taken from the decision of the court in the action or proceeding, remains in the custody of the court or clerk five years after time for appeal has expired, or, if appeal has been taken, remains in the custody of the court or clerk five years after final determination thereof, or that remains in the custody of the court or clerk for a period of five years after any of the following:

(a) A motion for a new trial has been granted and a memorandum to set the case for trial has not been filed, or a motion to set for trial has not been made within five years.

(b) The dismissal of the action or proceeding.

In addition, the court on its own motion, may order the destruction or other disposition of any exhibit, deposition, or administrative record that remains in the custody of the court or clerk for a period of 10 years after the introduction or filing of the action or proceeding if, in the discretion of the court, the exhibit, deposition, or administrative record should be disposed of or destroyed.

The order shall be entered in the register of actions of each case in which the order is made.

No exhibit, deposition, or administrative record shall be ordered destroyed or otherwise disposed of pursuant to this section if a party to the action or proceeding files a written notice with the court requesting the preservation of any exhibit, deposition, or administrative record for a stated time, but not to exceed one year.

Any sealed file shall be retained for at least two years after the date on which destruction would otherwise be authorized pursuant to this section.

### **Cal Pen Code § 1417.1**

**When exhibits may be disposed of; What constitutes final determination of action or proceeding.** No order shall be made for the destruction of an exhibit prior to the final determination of the action or proceeding. For the purposes of this chapter, the date when a criminal action or proceeding becomes final, is as follows:

- (a) When no notice of appeal is filed, 30 days after the last day for filing that notice.
- (b) When a notice of appeal is filed, 30 days after the date the clerk of the court receives the remittitur affirming the judgment.
- (c) When an order for a rehearing, a new trial, or other proceeding is granted and the ordered proceedings have not been commenced within one year thereafter, one year after the date of that order.
- (d) In cases where the death penalty is imposed, 30 days after the date of execution of sentence.

### **Cal Pen Code § 1417.2**

**Release of exhibits upon stipulation of parties.** Notwithstanding Section 1417.5, the court may, on application of the party entitled thereto or an agent designated in writing by the owner, order an exhibit delivered to that party at any time prior to the final determination of the action or proceeding, upon stipulation of the parties or upon notice and motion if both of the following requirements are met:

- (a) No prejudice will be suffered by either party.
- (b) A full and complete photographic record is made of the exhibits so released.

The party to whom the exhibit is being returned shall provide the photographic record. This section shall not apply to any material, the release of which is prohibited by Section 1417.6.

### **Cal Pen Code § 1417.3**

#### **Return of exhibits**

(a) At any time prior to the final determination of the action or proceeding, exhibits offered by the state or defendant shall be returned to the party offering them by order of the court when an exhibit poses a security, storage, or safety problem, as recommended by the clerk of the court. If an exhibit by its nature is severable the court shall order the clerk to retain a portion of the exhibit not exceeding three pounds by weight or one cubic foot by volume and shall order the return of the balance of the exhibit to the district attorney. The clerk, upon court order, shall substitute a full and complete photographic record of any exhibit or part of any exhibit returned to the state under this section. The party to whom the exhibit is being returned shall provide the photographic record.

(b) Exhibits toxic by their nature that pose a health hazard to humans shall be introduced to the court in the form of a photographic record and a written chemical analysis certified by competent authority. Where the court finds that good cause exists to depart from this procedure, toxic exhibits may be brought into the courtroom and introduced. However, following introduction of the exhibit, the person or persons previously in possession of the exhibit shall take responsibility for it and the court shall not be required to store the exhibit.

## **Cal Pen Code § 1417.5**

### **Procedure for disposition of exhibits**

Except as provided in Section 1417.6, 60 days after the final determination of a criminal action or proceeding, the clerk of the court shall dispose of all exhibits introduced or filed in the case and remaining in the clerk's possession, as follows:

- (a) If the name and address of the person from whom the exhibit was taken is contained in the court record, **the clerk shall notify the person that he or she may make application to the court for release of the exhibits within 15 days of receipt of the notification.**
- (b) The court shall order the release of exhibits free of charge, without prejudice to the state, upon application, to the following:
  - (1) First, the person from whom the exhibits were taken into custody, provided that the person was in lawful possession of the exhibits.
  - (2) Second, a person establishing title to, or a right to possession of, the exhibits.
- (c) **If the party entitled to an exhibit fails to apply for the return of the exhibit prior to the date for disposition** under this section, the following procedures shall apply:
  - (1) Exhibits of stolen or embezzled property other than money shall be disposed of pursuant to court order as provided in Section 1417.6.
  - (2) Exhibits of property other than property which is stolen or embezzled or property which consists of money or currency shall, except as otherwise provided in this paragraph and in paragraph (3), be transferred to the appropriate county agency for sale to the public in the same manner provided by Article 7 (commencing with Section 25500) of Chapter 5 of Part 2 of Division 2 of Title 3 of the Government Code for the sale of surplus personal property. If the county determines that any property is needed for a public use, the property may be retained by the county and need not be sold.
  - (3) Exhibits of property, other than money, currency, or stolen or embezzled property, that are determined by the court to have no value at public sale shall be destroyed or otherwise disposed of pursuant to court order.

- (4) Exhibits of money or currency shall be disposed of pursuant to Section 1420.

**Cal Pen Code § 1417.6**

**Destruction of contraband; Hearing regarding specified tools or devices**

- (a) *The provisions of Section 1417.5 shall not apply* 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.

Any of this property introduced or filed as an exhibit 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.

- (b) (1) Every person who knowingly has in his or her possession any tool or device that is seized and of a type used in the commission of a violation of Section 10801, 10802, or 10803 of the Vehicle Code, shall be subject to having the tool or device intended for the above purpose deemed a nuisance as provided in paragraph (2).
- (2) An evidentiary hearing shall be held only upon conviction of the defendant for a violation of Section 10801, 10802, or 10803 of the Vehicle Code and after 15 days' notice is given to the defendant of the state's intent to declare as a nuisance any property that is described in paragraph (1). All relevant evidence shall be admissible at the hearing and the state shall prove by a preponderance of the evidence that the property seized is of a type used in facilitating the commission of the crime of which the defendant was convicted.
- (3) If a person purports to be the lawful owner of any tool or device the state seeks to be declared a nuisance, the person shall show proof by a preponderance of the evidence at the hearing pursuant to paragraph (2), that he or she owns the tool or device, and the illegal use of the tool or device was without his or her knowledge or consent.
- (4) Following a determination that the property shall be declared a nuisance, the property shall be disposed of as provided in paragraph (2) or (3) of subdivision (b) of Section 1417.5.

**Cal Pen Code § 1417.7**

**Notification of party; Photographic records of exhibits.** Not less than 15 days before any proposed disposition of an exhibit pursuant to Section 1417.3, 1417.5, or 1417.6, the court shall notify the district attorney (or other prosecuting attorney), the attorney of record for each party, and each party who is not represented by counsel of the proposed disposition. Before the disposition, any party, at his or her own expense, may cause to be prepared a photographic record of all or part of the exhibit by a person who is not a party or attorney of a party. **The clerk of the court shall observe the taking of the photographic record and, upon receipt of a declaration of the person making the photographic record that the copy and negative of the photograph delivered to the clerk is a true, unaltered, and unretouched print of the photographic record taken in the presence of the clerk, the clerk shall certify the photographic record as such without charge and retain it unaltered for a period of 60 days following the final determination of the criminal action or proceeding. A certified photographic record of exhibits shall not be deemed inadmissible pursuant to Section 1521 or 1522 of the Evidence Code.**

## Cal Pen Code § 1417.8

### Availability and disposition of photograph of minor that is "harmful Matter"

- (a) Notwithstanding any other provision of this chapter, any photograph of any minor that is harmful matter, as defined in Section 313, and introduced or filed as an exhibit in any criminal proceeding specified in subdivision (b) shall be handled as follows:
  - (1) Prior 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.
  - (2) After the final determination of the action or proceeding, the photograph shall be preserved with the permanent record maintained by the clerk of the court. The photograph may be disposed of or destroyed after preservation through any appropriate photographic or electronic medium. If the photograph is disposed of, it shall be rendered unidentifiable before such 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.**
- (b) The procedure provided by subdivision (a) shall apply to actions listed under subparagraph (A) of paragraph (2) of subdivision (a) of Section 290, and to actions under the following provisions:
  - (1) Section 261.5.
  - (2) Section 272.
  - (3) Chapter 7.5 (commencing with Section 311) of Title 9 of Part 1.
  - (4) Chapter 7.6 (commencing with Section 313) of Title 9 of Part 1.
- (c) For the purposes of this section, "photograph" means any photographic image contained in a digital format or on any chemical, mechanical, magnetic, or electronic medium.