

Marin Voice: Audit unveils court problems

By Kathleen Russell
Guest op-ed column

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THE California Bureau of State Audits last week released its 109-page report, detailing the results of its 17-month audit of the Marin and Sacramento Family Courts.

Across the board and on nearly every measured aspect, the Sacramento and Marin family courts failed to meet the minimum standards required by law.

So you may wonder what the latest audit of the Marin family court means, and how the same report described by state Sen. Mark Leno as "quite disturbing" could be hailed by local Marin court officials as "proving beyond any doubt" that "there's no problem."

Simple. The Marin Court has deliberately mischaracterized this audit as comprehensive and boasted that "the report does not contain a single finding of "... judges and mediators putting children at risk."

Interestingly, the Center for Judicial Excellence and our allies drafted an earlier audit request focused on evaluating

"increasing evidence that children in custody disputes are being removed from their primary, non-abusive caretakers and placed in the custody of parents who have been identified as the children's physical or sexual abusers."

The Administrative Office of the Courts — the lobbying arm of the California courts — labeled these "very serious allegations" and fought to narrow the scope of the audit, explaining in a May 19, 2009 letter, "these claims cannot be verified or refuted by the data collected

in the audit."

The Marin Court has apparently forgotten the California judiciary's stated position on the parameters of a viable audit.

The audit provides a valuable explanation as to why things remain awry in the Marin family court.

Consider some of the findings: The Marin Office of Family Court Services could not demonstrate that five of the seven family court mediators met even the minimum qualifications and training necessary to perform mediations and make custody recommendations. The court does not document and track complaints and potential



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conflicts of interest and their dispositions.

The Marin mediators' current supervisor is not qualified to perform clinical supervision of family court mediators regarding its individual cases, as required by law.

For all eight sampled complaints filed against mediators, the manager did not document whether he consulted with the mediator during the complaint investigation. In a considerable number of instances, the audit reported "limitations in their ability to determine the number of complaints received," making their data unreliable.

We must wonder whether the mass document destruction by the court and others during an eight-month standoff with the state auditor contributed to the significant gaps in recordkeeping.

The Marin Court could not demonstrate that its private evaluators were qualified and met certain requirements. For three of the five sample cases that the auditor reviewed involving a private custody evaluator, domestic violence training certificates were not attached to completed evaluation reports, as required by California Rules of Court.

Quality control issues dominate the report.

Because of the national impact of our work to protect children in family court, the center was recognized in October by President Barack Obama and Vice President Joe Biden at an intimate White House ceremony commemorating Domestic Violence Awareness Month.

We were also honored to coordinate and facilitate the first White House briefing on the national family court crisis last May.

While the Marin Court seems unable or unwilling to accept auditor criticism and instead is attacking the center, we remain steadfast in our nearly five-year commitment to try to work collaboratively with the Marin Court to improve its service to our community's children.

We invite the Marin Superior Court to enlist the Marin County Bar Association and other interested stakeholders in a community forum to discuss how we can collaborate to transform Marin's Family Court into a model of best practices that protects children and makes us all proud.

Kathleen Russell is executive director of the Marin Center for Judicial Excellence.



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