



CENTER FOR JUDICIAL EXCELLENCE

**REQUEST FOR CRIMINAL INVESTIGATION
REGARDING THE DESTRUCTION OF MARIN FAMILY COURT EVIDENCE
WHILE CHILD CUSTODY CASES ARE PENDING, AND
DURING A LEGISLATIVE AUDIT OF THE MARIN FAMILY COURT**

September 15, 2010

To Whom It May Concern:

We are writing to request a comprehensive criminal investigation regarding the destruction of Marin Family Court Services mediation child custody files (and perhaps other files as well) by Judicial Council Member & Marin Court Executive Officer Kim Turner; 2009 Marin Superior Court Presiding Judge Verna Adams; the California Administrative Office of the Courts (AOC); various Marin Family Court Services personnel; and unknown others, while child custody cases involving those mediation files, and a state Joint Legislative Audit Committee (hereafter "JLAC") Investigation of the Marin Family Court (including Marin Family Court Services mediators) were ongoing.

The Marin Family Court's current claim is that a wholesale purge of Marin Family Court Services child custody files was undertaken just weeks after the JLAC investigation commenced in order to "make space" rather than to destroy evidence relevant to the JLAC investigation. However, the facts illustrate that Presiding Judge Adams, Judicial Councilmember Turner, Marin Family Court Services personnel, and the AOC have known for years a) about litigant and advocate allegations that Judge Adams, the Marin Family Court, Marin Family Court Services personnel, and Marin Family Court appointees were violating state mandated family laws and procedures, and b) that litigants and advocates repeatedly have sought all kinds of investigations (including criminal) of the Marin Family Court.

In other words, we believe that members of the California Judicial Branch and administration have purposefully thwarted the Constitutional 'checks and balances' function of the legislature to investigate constituent complaints about the Marin Family Court. We believe that in the process, they have endangered children, and deprived parents of evidence that is clearly relevant to their ongoing child custody cases.

We believe that this document destruction may violate many state statutes--for example Penal Code sections 135, 96.5 and 182 -- and perhaps related federal statutes as well.

In support of our request for a criminal investigation delivered herewith please find:

1. **A copy of the August 11, 2010 AOC report entitled “Superior Court of California, County of Marin, Investigative Report: Destruction of Family Court Mediator Working Files”.** The report admits that Judicial Council member/Marin Court Executive Officer Kim Turner, after ongoing consultation with and permission from the AOC, spent weeks in the Fall of 2009 destroying Marin Family Court Services mediation files while the JLAC-ordered audit of the Marin Family Court was ongoing. The report notes that prior to the destruction, the “general working practice” of the retention of such files was 5 years (page 5). The September 23, 2009 e-mail sent by Kim Turner instructing Family Court Services personnel to destroy documents was copied to then-Marin Presiding Judge Verna Adams.
2. **A copy of the April 2010 testimony of Family Court Services mediator Meredith Braden, describing the destruction of mediation files in the Fall of 2009.** This sworn testimony prompted the request for an investigation. This testimony makes clear that child custody mediation files relevant to **ongoing** child custody cases were destroyed, thereby depriving parents of the right and ability to subpoena child custody mediation files and properly question mediators about their child custody recommendations, and eliminating the mediators’ ability to properly answer such questions.
3. **A copy of the March 2006 testimony of Family Court Services mediator Gloria Wu in Marin Superior Court case no. FL 995107, revealing the type of information kept in Family Court Services mediation files.** This cross-examination reveals that a child who had for years returned from visits with his father with bruises, told the Family Court Services mediator that his dad hit him, “sometimes for fun, sometimes he means it”. The mediator, a mandated reporter, failed to investigate the child’s claim, report it to anyone, or include the information in her mediation recommendation. The child’s statement was discovered only after the mediator’s file was subpoenaed, and the mediator was cross-examined. Family Court Services has confirmed that this mediation file is one of those that was destroyed in 2009.
4. **A copy of the June 6, 2008 Capitol Weekly article entitled “Lieber Seeking Audit of Family Court System”**, which states as follows:

“Judge Verna Adams—who is Presiding Judge in Marin County Superior Court and Supervising Judge of their Family Law Division—said that her court is already audited regularly by the Judicial Council of California. Adams, who presided over Diop’s case, said she is confident an audit will find no major problems”.
5. **A series of 2007 e-mails** involving FL 995107, to multiple individuals, including but not limited to: Marin Sheriff Robert Doyle, Commission on Judicial Performance director Victoria Henley, Daniel Harris of the Attorney General’s office, Marin District Attorney Ed Berberian, the Marin Board of Supervisors, Beth Jordan—then chair of the family law section of the Marin County Bar Association, Marin Court Executive Officer Kim Turner, Marin Judge Lynn Duryee, Family Court

Services Supervisor Leo Terbeiten, and others, **“about the illegal behavior of Marin Family Court Services”**, and asking for **“a criminal, administrative, judicial and every other possible kind of investigation. . . to find out what the heck is going on up at the Marin County court.”**

6. **A series of 2008 e-mails** with Susan Reeves, of the AOC, sent with multiple attachments (which are not provided herewith but are available), about **“the fact that Judge Verna Adams and our court mediators and appointees are breaking California family laws with abandon”**, and including Susan’s assurance that she would **“pass the e-mails along to Chris Patton”** (attorney/AOC Northern Regional Administrative Director). The e-mails specifically refer to three high-profile Marin custody cases—involving Yupa Assawasuksant (FL 995107), Rama Diop (FL 064080) and Jonea Rogers (FL 12003).

(NOTE: In September, 2009, at the time the document destruction was approved and undertaken, a custody appeal was pending in the Court of Appeal in FL 064080 (Diop); and a Petition for Review related to a custody appeal -- which squarely raised the illegality of Marin trial court and Marin Family Court Services procedures-- was pending in the California Supreme Court in FL 995107. Both cases had involved the same judge (Verna Adams) and the same mediator (Gloria Wu), and similar claims of systemic Family Court Services and trial court discrimination and irregularities. Judge Adams had been challenged pursuant to CCP section 170.1 in both cases, based on charges of unlawful and biased behavior. Both litigants had complained about the assigned Family Court Services mediator Dr. Wu, and asked for reassignment to a new mediator, but the request was summarily denied.)

7. **July 2009 newspaper articles** (Marin Independent Journal, The Recorder) announcing and discussing the scope of the legislative audit of the Marin Family Court.
8. **August 2010 E-mail exchanges** with Marin Family Court Services, confirming that the mediation files involving Yupa Assawasuksant (Marin Superior Case No. FL 995107) and Rama Diop (Marin Superior Case No. FL064080) have been destroyed. It is unknown whether the file in FL 12003 was destroyed.

The above documents and information make it very clear that at the time of the Fall 2009 Marin child custody mediation file destruction, the Marin Court and the AOC were very well aware of allegations regarding and requests for investigation of illegal/incompetent behavior by Judge Verna Adams and other bench officers, Marin Family Court Services personnel, and other court appointees; and they were aware that the JLAC audit of the Marin Family Court –an audit that was based in large part on allegations of improper behavior by Marin bench members, Marin Family Court Services personnel, and court appointees—had already commenced. The August 2010 e-mails reveal that the mediation files of even the most controversial and high-profile pending cases were destroyed.

Only when an official state investigation was actually underway were the Marin records destroyed. This was contrary to the custom and practice of Family Court Services, and this was before a formal Marin record retention policy was in put in place.

The extent of the record destruction is unclear. The last sentence on page 3 of the AOC report could be read as a red flag that other files--including what the AOC and Turner call actual "court records", may have been destroyed, but that the AOC believes the destruction was "in accordance with statute or CRC". It is imperative to get a complete list of the files that were destroyed since a) May of 2007 and b) most especially, in 2009-2010. It would appear from the new November 2009 Marin "Records Retention and Destruction Policy" that the Marin Court has set the stage for destruction of e-mails, correspondence, complaints, and/or other Family Court documents, although e-mails and correspondence to and from judges, administrators and court personnel such as mediators in some cases contain important information, relevant to the audit process.

Many, many other documents (e-mails, correspondence, pleadings, taped testimony) evidencing the California third branch's intimate knowledge of allegations of misconduct in the Marin Family Court prior to the coordinated destruction of record during the JLAC audit are available for review.

The JLAC Committee voted unanimously to pass this audit request because it involves longstanding concerns about the health, safety and well being of children in our state's family courts. We urge your immediate and swift action on this urgent matter.

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