

RESOLUTION NO. 24-125

RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS AUTHORIZING THE DESTRUCTION OF CERTAIN RECORDS OF THE MENDOCINO COUNTY PUBLIC DEFENDER

WHEREAS, Government Code Section 26202 provides that the Board of Supervisors may authorize the destruction or disposition of any record, paper, or document which is more than two (2) years and which was prepared or received in any manner other than pursuant to a state statute or county charter, and further provides that the Board of Supervisors may authorize the destruction or disposition of any record, paper, or document which is more than two (2) years old, which was prepared or received pursuant to state statute or county charter, and which is not expressly required by law to be filed and preserved if the Board determines by four-fifths (4/5) vote that the retention of any such record, paper, or document is no longer necessary or required for County purposes; such records, papers, or documents are not required to be photographed, reproduced, or microfilmed prior to destruction and no copy thereof need be retained; and

WHEREAS, Mendocino County Board of Supervisors Resolution Number 09-202 established a records retention schedule for the County of Mendocino's General Services Agency, which schedule guides the retention of certain similar records of the Public Defender; and

WHEREAS, Government Code Section 26205.8 provides that, notwithstanding any other provision of law relating to the destruction of attorney-client information or county records, the Board of Supervisors may authorize the destruction of nonfelony public defender records eight (8) years after the final disposition of a case; and

WHEREAS, Government Code Section 26201 provides that the Board of Supervisors may authorize at any time the destruction or disposition of any duplicate record, paper, or document, the original or a permanent photographic reproduction of which is in the files of any officer or department of the county; and

WHEREAS, Government Code Section 26205.1, subdivision (a), provides that the County officer having custody of nonjudicial public records, documents, instruments, books, and papers may cause such to be destroyed (1) if the Board of Supervisors has adopted a resolution authorizing the destruction, which may impose conditions that the Board of Supervisors determines are appropriate, (2) the County officer who so destroys said records shall maintain for the use of the public a photographic or microphotographic film, electronically recorded video production, a record contained in the electronic data processing system, a record recorded on optical disk, a records recorded by any other medium that does not permit additions, deletions, or changes to the original document, or other duplicate of the record, document, instrument, book, or paper destroyed, and (3) the record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data processing system, recorded on optical disk or reproduced on film, or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document and is produced in compliance with Section 12168.7 for recording of permanent records or nonpermanent records; and

WHEREAS, subdivision (b) of Government Code Section 26205.1 further provides that the reproduction requirements of paragraphs (2) and (3) of Government Code Section 26205.1(a) do not apply to records prepared or received other than pursuant to a state statute or county charter, or records that are expressly required by law to be filed and preserved; and

WHEREAS, the Public Defender is not requesting the destruction of any records that would require the reproduction requirements of paragraphs (2) and (3) of Government Code Section 26205.1(a) to apply; and

WHEREAS, the Public Defender has identified in Schedule A, attached and incorporated by reference herewith, records that are recommended for destruction, in accordance with the provision of the referenced resolution and statutes herein.

NOW, THEREFORE, BE IT RESOLVED by the Mendocino County Board of Supervisors, based on all of the evidence in the record before it, as follows:

1. Pursuant to Government Code Section 26202, all of the records listed in Schedule A that are more than two years old, not expressly required by law to be filed and preserved, and the Board hereby determines, by a four-fifths (4/5) vote that retention of said records is no longer necessary or required for County purposes. Such records, papers, or documents need not be photographed, reproduced, or microfilmed prior to destruction and no copy thereof need be retained. The Public Defender is authorized to destroy such records, so long as all laws related to attorney-client information allow for such destruction.
2. Pursuant to Government Code Section 26201, the Public Defender may, as identified in Schedule A, destroy any duplicate record, paper, or document, the original or permanent photographic reproduction of which is in the files within the Public Defender's possession.
3. Pursuant to Government Code Section 26205.1 and based on the assurances of the Public Defender all records being requested to be destroyed would not require the reproduction requirements of paragraphs (2) and (3) of Government Code Section 26205.1(a), the Board of Supervisors grants the Public Defender the authority to destroy the records as identified in Schedule A, so long as all laws related to attorney-client information allow for such destruction.
4. Pursuant to Government Code Section 26205.8 the Board of Supervisors grants the Public Defender the authority to destroy nonfelony records eight (8) years after the final disposition of a case, so long as all laws related to attorney-client information allow for such destruction.

The foregoing Resolution introduced by Supervisor Williams, seconded by Supervisor Haschak, and carried this 10th day of September, 2024, by the following vote:

AYES: Supervisors McGourty, Mulheren, Haschak, Gjerde and Williams
NOES: None
ABSENT: None

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: DARCIE ANTLE
Clerk of the Board



Deputy

APPROVED AS TO FORM:
CHARLOTTE E. SCOTT
County Counsel



Deputy



MAUREEN MULHEREN, Chair
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

BY: DARCIE ANTLE
Clerk of the Board



Deputy

Mendocino County Public Defender Record Retention Schedule				
Record Type	Record Description	Record Retention Period	Authority Citations	Remarks
Homicide Case Files	Client files; original attorney files containing all discovery, correspondence, notes, records, and documents related to the criminal case	Life of the client or until the client authorizes destruction, but no earlier than the term of the client's imprisonment . *	Govt. Code §§ 26202 & 26205.1; Penal Code § 1054.9; State Bar Formal Opinion No. 2001-157 & 19-0004	Confidential
Non-Homicide Felony Case Files	Client files; original attorney files containing all discovery, correspondence, notes, records, and documents related to the criminal case	Life of the client or until the client authorizes destruction, but no earlier than the term of the client's imprisonment if convicted of a serious felony or a violent felony resulting in a sentence of 15 years or more.*	Govt. Code §§ 26202 & 26205.1; Penal Code § 1054.9; State Bar Formal Opinion No. 2001-157 & 19-0004	Confidential
Misdemeanor Case Files	Client files; original attorney files containing all discovery, correspondence, notes, records, and documents related to the criminal case	Life of the client or until the client authorizes destruction, but no earlier than 8 years after the final disposition of the case.*	Govt. Code §§ 26202, 26205.1, & 26205.8; State Bar Formal Opinion No. 2001-157 & 19-0004	Confidential
Juvenile Case Files	Client files; original attorney files containing all discovery, correspondence, notes, records, and documents related to the criminal case	Life of the client or until the client authorizes destruction.*	Govt. Code §§ 26202 & 26205.1; State Bar Formal Opinion No. 2001-157 & 19-0004	Confidential
Civil Case Files	Client files; original attorney files containing all discovery, correspondence, notes, records, and documents related to the civil case	Life of the client or until the client authorizes destruction.*	Govt. Code §§ 26202 & 26205.1; State Bar Formal Opinion No. 2001-157 & 19-0004	Confidential
Probate Case Files	Client files; original attorney files containing all discovery, correspondence, notes, records, and documents related to the civil case	Life of the client or until the client authorizes destruction.	Govt. Code §§ 26202 & 26205.1; State Bar Formal Opinion No. 2001-157 & 19-0004	Confidential
Budget Documents	Hard copy Zero Based Reports, Budget Reports, YTD reports, Impact Statements, Budget Narratives, Salary Projections, Revenue Reports, Enterprise ISF Allocation Reports, Microwave Fees, Fleet Charges, Grant related documents, accounts payable statements and supporting documentation, Statements of deposit.	5 years + current year*	Govt. Code § 26202; Resolution 09-202	
Payroll	Hard copy time cards and Requests for Time Off, Paytype and Standard pay reports, Vacation Payout forms.	15 years*	Govt. Code § 26202; Resolution 09-202	Confidential
Personnel Working Files	Hard copy Personnel Transactions, Evaluation Reports, Misc network access forms, disciplinary reports/memos, job applications.	1 year after employee separation*	Govt. Code § 26202; Resolution 09-202	Confidential
Receipt Books	Accounts Receivable receipt books.	7 years*	Govt. Code § 26202; Resolution 09-202	
* Destruction of duplicate copies is authorized pursuant to Government Code Section 26201 so long as the client would not be prejudiced by the destruction of such duplicate.				