

**MEMORANDUM OF UNDERSTANDING
ACCESS TO COURT RECORDS**

The Parties to this Memorandum of Understanding (hereinafter "MOU") are the Colorado State Court Administrator's Office (hereinafter "SCAO") and the Colorado Commission on Judicial Discipline (hereinafter "Judicial Discipline"). SCAO and JUDICIAL DISCIPLINE may herein be referred to as "Party" or "Parties".

WHEREAS, the Clerks of Court for the county and district courts in Colorado are the custodian of records for non-electronic court records; AND

WHEREAS, JUDICIAL DISCIPLINE is in need of access to court records in its process of investigating complaints against judges and justices in Colorado; AND

WHEREAS, pursuant to Chief Justice Directive 05-01, (hereinafter "CJD 05-01") not all court records are available to the public and "public" is determined by the directive not to include "people or entities, private or governmental, who assist the court in providing court services" or "judicial branch staff"; AND

WHEREAS, JUDICIAL DISCIPLINE is a governmental entity established by the Colorado Constitution for disciplining judges if an investigation merits it and if necessary recommending to the Supreme Court that a judge be removed from office thereby assisting the Supreme Court, and JUDICIAL DISCIPLINE is also judicial branch staff; AND

WHEREAS, the Parties desire to enter an Agreement to establish parameters for JUDICIAL DISCIPLINE to access court files and court documents in order to accomplish its functions while balancing any privacy issues of the persons whose court information is obtained;

NOW THEREFORE, in consideration of the premises and mutual promises and covenants herein contained, the sufficiency of which is hereby acknowledged, SCAO and JUDICIAL DISCIPLINE agree as follows:

1. TERM. This MOU shall be effective upon signature of the Parties and shall continue unless either Party notifies the other Party, in writing, that it is terminating the MOU.
2. DUTIES OF SCAO.
 - a. SCAO will notify the Clerks of Court of each county and judicial district that upon request of staff from JUDICIAL DISCIPLINE they are, pursuant to this Agreement, to provide requested court files and documents to JUDICIAL DISCIPLINE unless the requested files are excluded from release by this MOU and/or CJD 05-01.
 - b. SCAO will inform Clerks of Court that the requested records are to be provided to JUDICIAL DISCIPLINE without need for payment by JUDICIAL DISCIPLINE
 - c. SCAO will inform the Clerks of Court that certain records that are protected from public access shall be provided to JUDICIAL DISCIPLINE under a cover sheet

indicating that the records are protected and are to be treated as such and not re-released.

- d. SCAO will instruct Clerks of Courts that if there is any question regarding the interpretation and application of this MOU to a request by JUDICIAL DISCIPLINE, the clerk shall consult Legal Counsel in the State Court Administrator's Office.

3. DUTIES OF JUDICIAL DISCIPLINE.

- a. JUDICIAL DISCIPLINE staff are to keep confidential all information obtained pursuant to this MOU that is received under confidential cover from a clerk of court's office.
- b. JUDICIAL DISCIPLINE will only use the information as necessary for the completion of its investigations and that upon completed use of the information, the documents obtained will be shredded.
- c. JUDICIAL DISCIPLINE will submit all requests for documents from clerks of courts in writing to the respective clerk. Such writing can include a request made via email. To the extent possible, the request should specify the documents requested from a court case file.

4. PROTECTED RECORDS CJD 05-01, shall provide guidance regarding the release and/or protection of documents and cases provided to JUDICIAL DISCIPLINE

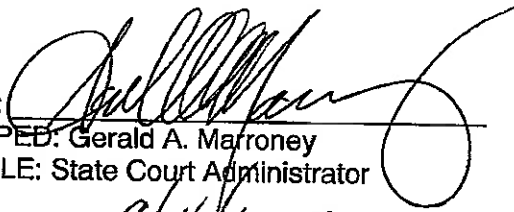
- a. The following case types will never be provided to JUDICIAL DISCIPLINE without a court order:
 - i. Judicial Bypass cases
 - ii. Adoption cases
 - iii. Relinquishment cases
 - iv. Paternity cases
 - v. Mental Health cases
- b. The following case types and documents will only be provided under confidential cover:
 - i. Juvenile Delinquency cases
 - ii. Dependency and Neglect cases
 - iii. Truancy cases
 - iv. Expunged cases
 - v. Sealed cases
 - vi. Documents within a case that have been sealed by court order
- c. The following documents can be provided to JUDICIAL DISCIPLINE with a release of information from the party whom it concerns, or a court order:
 - i. Drug/Alcohol treatment information of a party to a case
 - ii. Genetic testing information, including a paternity test
 - iii. HIV/AIDS testing information
 - iv. Medical and Mental Health information
 - v. Psychological and intelligence test information
- d. For all other documents listed in the policy attachment to CJD 05-01 at §4.60(d)(1-24), (attached hereto and incorporated herein by this reference) the

request from JUDICIAL DISCIPLINE must specify these documents. Legal Counsel for SCAO will be consulted by the Clerk of Court regarding the release of any of these specified documents.


IN WITNESS WHEREOF, the Parties have executed this MOU on the dates written below.

COLORADO JUDICIAL DEPARTMENT,
STATE COURT ADMINISTRATOR'S OFFICE

COLORADO COMMISSION ON JUDICIAL
DISCIPLINE

BY: 
TYPED: Gerald A. Marroney
TITLE: State Court Administrator

DATE: 9/24/12

BY: 
TYPED: William J. Campbell
TITLE: Executive Director

DATE: 10/1/12