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Preservation Rules for Trial Court Records: Sample Survey of Ten States

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Results Summary for Ten Sample States

State	Destruction Paradigm	Availability for Unaffiliated Cultural Institutions
California	Permissive	Yes
Georgia	Permissive	No
Idaho	Permissive	No
Illinois	Permissive	Yes
Oklahoma	Permissive	Yes
Pennsylvania	Permissive	No
South Carolina	Permissive	Yes (if approval is given by Dept. of Archives & History <i>and</i> court administration)
Utah	Mandatory	No
Vermont	Permissive	No
Wisconsin	Permissive	No (except U. Wisc. and Superior Public Library)

1. California

- Destruction Paradigm: **Permissive**. Destruction permitted after time period expiration, based on category and record creation date.
- Availability for Unaffiliated Cultural Institutions: **Yes**. Available to any institution or individual upon request to and approval by the superior court.
- Notes or Unique Features: Notice of any intended trial court record destruction must be given to organizations maintained on a master list held by the Judicial Council, and to any other entities that have informed the court directly that they wish to be notified. In addition, there is a sampling program in effect that requires preservation of percentage of records from particular years.

Citations	Summary of Retention Paradigm	Summary of Destruction Paradigm	Notes
<p>Government Code §§ 68150 - 68153 (preservation and destruction requirements)</p> <p>California Rule of Court 10.850 (adopts gov't. code definition of "court record")</p> <p>California Rule of Court 10.854 ("Standards and guidelines for trial court records")</p> <p>California Rule of</p>	<p>Government Code §§ 68150 - 68153 prescribe how trial court records are to be maintained and preserved, based on category of record (e.g. general civil records to be retained 10 years after final disposition.) These provisions also delegate authority to the Judicial Council of California to adopt suitable implementation guidelines.</p> <p>In Oct. 2010, the Judicial Council amended Cal. Rules of Court (CRC) and adopted rules 10.850 and 10.854, directing the Admin. Office of the Courts to create a "Trial Court Records Manual" (TCRM) regarding retention (& destruction). The time periods set forth in the TCRM mirror the time periods set forth in Gov't Code §§ 68150 <i>et seq.</i></p>	<p>Government Code §§ 68150 - 68153 specify how long different types of records must be preserved</p> <p>Records managers may systematically destroy records in accordance with statutes and rules enumerated in section 11.4 of the "Trial Court Records Manual."</p> <p>Before any destruction can occur, under Gov't. Code §§ 68152 & 68153 and CRC 10.856, the clerk must first publicly issue a notice of intended destruction (REC-001(N)), affording opportunity for "application of a party or an interested member of the public for good cause shown to request transfer of the records."</p>	<p>The "Superior Court Records Sampling Program" (CRC 10.855) was established "to <u>preserve in perpetuity for study by historians and other researchers</u> " case files "to document the <u>progress and development of the judicial system, and to preserve evidence of significant events and social trends.</u> "</p> <p>The Records Management</p>

<p>Court 10.855 (“Superior court records sampling program”)</p> <p>California “Trial Court Records Manual” (Version 1.0; established Jan. 1, 2011)</p>	<p>As of 2007, under CRC 10.855, there is also a “Superior court records sampling program,” pursuant to which court clerks are required to preserve all “pre-1911 court records and, if practicable, all of those between 1910 and 1950.” Even if a court does destroy records from 1910-1950, they are required to keep approximately 10% of all records from those years, and 2% of a subjective sampling. This rule is not intended to restrict a court from preserving more records than the minimum required.</p> <p>Additionally, on a schedule also set forth in the TCRM, each year two counties are required to permanently retain all paper records from that year.</p>	<p>Under CRC 10.856, “The notice must be given to entities maintained on a master list by the Judicial Council and to any other entities that have informed the court directly that they wish to be notified. “</p> <p>Under CRC 10.856, any entity requesting the records must agree “to make the records reasonably available to all members of the public. Provision must be made for duplicating the records at cost.”</p> <p>CRC 10.856: “If two or more entities request the same records, the presiding judge must order the transfer of those records to the entity that shows the greatest capability of caring for and preserving the records...[and] greatest likelihood of making them available for historical or research purposes.”</p>	<p>Clearinghouse, within the Admin. Office of the Courts was established “to <u>serve as a referral center for historians and researchers seeking to study court records in superior courts.</u>” (TCRM p. 45)</p> <p>The CA State Archives houses collections of Supreme & Appellate court records, but not superior court. http://www.sos.ca.gov/archives/collections/</p>
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2. Georgia

- Destruction Paradigm: **Permissive** for some categories of records; mandatory for others. Time periods set forth in schedule.
- Availability for Unaffiliated Cultural Institutions: **No**. Unless the Judicial Branch Records Retention Schedule is modified to provide otherwise, only the Georgia State Archives or county archives may be a recipient. Records may not be placed in custody of private or semiprivate organizations or individuals.
- Notes & Unique Features: Personal communication with the Georgia State Archives has confirmed that only Georgia State Archives (or county archives) can be a recipient. From that personal communication: “Any court records [currently] held by private institutions were transferred before the retention schedules were established. There is no instance where transfer of title would now be allowed to a private institution.”

Citations	Summary of Retention Paradigm	Summary of Destruction Paradigm	Notes
<p>Georgia Official Judicial Branch Retention Schedules</p> <p>Georgia Records Act O.C.G.A. § 50-18-90, et seq.</p>	<p>Georgia’s Records Act (O.C.G.A. § 50-18-90, et seq.) enables each court to propose record retention schedule for that court, which will be adopted by the State Records Committee in conjunction with the Administrative Office of the Courts. <i>See</i> § 50-18-92</p> <p>Pursuant to Georgia’s Records Act, Georgia Official Judicial Branch Retention Schedules was developed, setting forth retention schedules based on type of document. E.g.: Felony cases (2010.0101), permanent retention. Civil Case files (2010.0402) are retained permanently, however if they are digitized, then paper copies of cases filed after 1900 “may be destroyed at the time they are eligible for transfer to a local holding area or County Records Center. Paper copies of cases filed prior to 1900 may not be destroyed,” unless Super. Ct. Clerk determines not of historical significance.</p> <p>The Retention Schedule also provides that a judge may declare any civil case court record to be “historical” and direct that the record be stored as required for this class of record.</p>	<p>O.C.G.A. § 50-18-102 (b) The destruction of records shall occur only through the operation of an approved retention schedule. <u>The records shall not be placed in the custody of private individuals or institutions or semiprivate organizations unless authorized by retention schedules.</u></p> <p>Pursuant to the Georgia Official Judicial Branch Retention Schedules, some destruction is mandatory after certain period of time (e.g. Misdemeanor cases). Most destruction is discretionary after certain period of time depending on whether, for instance, an electronic copy was also preserved (e.g. Civil case records, permanent unless digitized).</p> <p>For civil case records, the Judicial Branch Retention Schedule also provides for a determination by the Clerk of Superior that such records are not of historical significance, following which the records may be destroyed after the prescribed period of time (e.g. Civil Case Files and Dockets, permissive destruction after 20 years).</p>	<p>Summary of Georgia Record-Keeping Laws: http://sos.georgia.gov/archives/who_are_we/ri.ms/best_practices_resources/summary_georgia_record_keeping_laws.htm</p> <p>Importance of Georgia Archives: http://www.fogah.org/sitebuildercontent/sitebuilderfiles/ga_why_critical_2012_january_3.pdf</p>

3. Idaho

- Destruction Paradigm: **Permissive**.
- Availability for Unaffiliated Cultural Institutions: **No**. Provision only for Idaho State Historical Society.
- Notes & Unique Features: Interesting to note comparison that, for *appellate* records, special provision is made for providing them to the state law library and University of Idaho School of Law (Idaho Rule of Court 40)

Citations	Summary of Retention Paradigm	Summary of Destruction Paradigm	Notes
Idaho Rule of Court, Rule 37. Minimum standards for preservation, destruction, or disposition of trial court records -- Civil actions.	Idaho Rule of Court, Rule 37 (Civil Actions) creates <i>minimum</i> retention schedule for types of civil cases, such as general, probate, guardianship, adoptions, etc. Courts can exceed minimum time period before destruction, or preserve additional records. Generally, minimum time to keep the entire record” is “1 year from expiration of the time for appeal or determination of an appeal, or the determination of a proceeding following appeal.”	Under Idaho Rule of Court, Rule 37 (Civil Actions) and Idaho Rule of Court, Rule 38 (Criminal Actions), “the court shall give written notice to the Idaho State Historical Society of the intent to destroy or dispose of any record. No record shall be disposed of or destroyed for 90 days following notice unless the Idaho State Historical Society gives written notice to the court that it has no interest in obtaining or preserving the record.	Idaho Historical Society: http://history.idaho.gov/ Interesting to note that, for <i>appellate</i> records, special provision is made for providing them to the state law library and U. of Idaho school of law (Rule 40)
Idaho Rule of Court, Rule 38. Minimum standards for preservation, destruction or disposition of trial court records -- Criminal actions and infractions.	Idaho Rule of Court, Rule 38 (Criminal Actions), creates <i>minimum</i> retention schedule for types of criminal cases. Courts have discretion to exceed minimum time period before destruction, or preserve additional records. Generally, the “minimum time to keep the entire record” is “1 year from expiration of time for appeal, determination of an appeal, or determination of a proceeding following an appeal—whichever is later.		

4. Illinois

- Destruction Paradigm: **Permissive** depending upon type of record, set forth in Schedule K of the Manual on Recordkeeping.
- Availability for Unaffiliated Cultural Institutions: **Yes**. Once transferred to the State Archives, the Archives may “deposit” the records at the State Historical Library, university library, or with any historical society, museum, or library.

Citations	Summary of Retention Paradigm	Summary of Destruction Paradigm	Notes
<p>Illinois Local Records Act, 50 ILCS 205/1, <i>et seq.</i></p> <ul style="list-style-type: none"> • § 50 ILCS 205/3. Definitions • § 50 ILCS 205/4 Damage or Disposal of Records/Storage in State Archives • § 50 ILCS 205/7 Disposition rules <p>Manual on Recordkeeping prepared by the</p>	<p>Illinois Local Records Act, 50 ILCS 205/1. “An Act in relation to the destruction and preservation of public records of courts....”</p> <ul style="list-style-type: none"> • § 50 ILCS 205/3. "Agency" means any court... "Court" means a court, other than the Supreme Court.... • § 50 ILCS 205/4 & § 50 ILCS 205/7. The State archivist may retain any records which the Commission has authorized to be destroyed, where they have a historical value. The State archivist may deposit them in the State Archives, State Historical Library, or a university library, or with a historical society, museum, or library. <p>Pursuant to the General Administrative Order on Recordkeeping in the Circuit Courts, the Illinois Administrative Office of the Courts created the Manual on Recordkeeping, which specifies retention/destruction schedules.</p> <ul style="list-style-type: none"> • As set forth in the Manual on 	<p>Retention/destruction schedules are spelled out more fully in the Manual on Recordkeeping.</p> <p>Under § 50 ILCS 205/4, court records should be destroyed in accordance with the Manual on Recordkeeping, issued by the Admin. Office of the Courts pursuant to the General Administrative Order on Recordkeeping in the Circuit Courts. By statute, destruction rules require that:</p> <ul style="list-style-type: none"> • Prior to any such destruction, under the “clerks of the Circuit Courts shall notify the Supreme Court, in writing, specifying case records or other documents which they intend to destroy. The Supreme Court shall review the schedule of items to be destroyed and notify the appropriate Local Records Commission of the Court's intent to destroy such records. • Subsequently, the Local Records 	<p>History of Illinois Court Recordkeeping procedures recounted in attorney general advisory opinion: http://www.illinoisattorneygeneral.gov/opinions/2007/07-002.pdf</p>

<p>Administrative Office of the Courts</p> <p>§ 55 ILCS 120/1. [Transfer of documents]:</p>	<p><u>Recordkeeping</u>, upon motion for good cause, a judge can order a longer retention schedule. (See <u>Section K, p. 2 of 13</u>)</p> <p>§ 55 ILCS 120/1. [Transfer of documents]: County boards can also order that certain documents be deemed of historic interest or value and transferred to “the Lincoln Presidential Library, the State Archives or to the State University Library at Urbana, Illinois, or to any historical society duly incorporated and located within the county.”</p>	<p>Commission within 90 days after receiving Supreme Court's notice may digitize/photograph or “transport such original records to the State Archives or other storage location under its supervision. The Archivist may accept for deposit in the State Archives or regional depositories official papers...of...courts of this State, when such materials are deemed by the Archivist to have sufficient historical or other value to warrant their continued preservation by the State of Illinois.”</p>	
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5. Oklahoma

- Destruction Paradigm: **Permissive**.
- Availability for Unaffiliated Cultural Institutions: **Yes**. The court clerks are authorized to destroy records, after expiration of time periods, by first offering them to the Archives & Records Division of the Oklahoma Department of Libraries. In addition, if 22 years have gone by with no case activity, the clerk *may give* certain types of documents as historical research materials “to an appropriate organization as determined by the court clerk of the district court.” Certain types of files are excluded.

Citations	Summary of Retention Paradigm	Summary of Destruction Paradigm	Notes
<p>20 Okl. St. § 1005</p> <p>20 Okl. St. §</p>	<p>20 Okl. St. § 1005 (“Disposal or destruction of court records--Storage on microfilm, optical disk or other medium”): “A. Unless there is an objection by the presiding administrative judge or the chief judge of the district court, the court</p>	<p>Under 20 Okl. St. § 1005, the minimum retention periods before which destruction is authorized vary based on nature of case. For example, in civil cases: that have been dismissed and no pleading has been filed or</p>	<p>Archives and Records Division of the Oklahoma Department of</p>

<p>1005.1</p>	<p>clerk <u>is authorized</u> to dispose of the judicial records enumerated in this subsection by <u>first offering all or part of the records to the Archives and Records Division of the Oklahoma Department of Libraries for preservation as historical research materials...</u></p> <p>20 Okl. St. § 1005.1: “With the exception of felony conviction records, probate, adoption, quiet title, ejectment, partition, marriage and divorce records, and Indian deed approval records, all court records which have not been recorded on microfilm, microfiche, compact disc, or any other recognized technological means <u>and in which no activity has occurred for twenty-two (22) years, may be destroyed or may be given as historical research materials to an appropriate organization as determined by the court clerk of the district court.</u>” (emphasis added)</p>	<p>any action taken in the case for more than one (1) year, and all other civil cases after a ten-year period has elapsed since any pleading has been filed or any action taken. In probate cases, that have been dismissed and no pleading has been filed or any action taken in the case for more than one (1) year, and all probate cases after a twenty-year period has elapsed since any pleading has been filed or any action taken in the case.</p>	<p>Libraries</p> <p>Oklahoma’s State Archives currently has collections only of appellate level court records: “The State Archives contain records from the Territorial Supreme Court, United States Supreme Court of Appeals for Indian Territory, State Supreme Court Civil and Criminal, and State Court of Criminal Appeals. (Information needed: case number from the Supreme Court).”</p>
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6. Pennsylvania

- Destruction Paradigm: **Permissive**.
- Availability for Unaffiliated Cultural Institutions: **No, however transferring custody of “historic documents” is possible**. Under the County Records Manual, court records must be maintained only in a county-operated records or archives center. The county may make provisions to transfer inactive records to the Pennsylvania State Archives (a division of the Pennsylvania Historical and Museum Commission). In addition, certain “historical” records may be transferred to museums & historical societies for public display, but must be returned upon demand.

Citations	Summary of Retention Paradigm	Summary of Destruction Paradigm	Notes
<p>42 Pa.C.S. § 4321 et seq.</p> <p>Pa.R.J.A. No. 507</p> <p>County Records Manual, issued by the County Records Committee in Conjunction With the Pennsylvania Historical and Museum Commission (issued 2/2002)</p> <p>Record Retention & Dispositions Schedule & Guidelines (governing judicial documents/clerical personnel not otherwise covered by the County Records Manual; e.g. traffic court, adoptions)</p>	<p>Under 42 Pa. C.S. § 4321, <i>et seq.</i>, the Supreme Court of Pennsylvania is responsible for promulgating records retention schedules and disposition procedures for the records of the entire unified judicial system.</p> <ul style="list-style-type: none"> Under the terms of Rule of Judicial Administration Pa.R.J.A. No. 507(a), the Supreme Court’s Administrative Office has delegated part of the responsibility for setting retention schedules to the County Records Committee, which in turn issued the County Records Manual. The County Records Manual governs how <i>county officers</i> (e.g. Common Pleas Court Prothonotaries, Clerks of Courts, etc.) should retain/dispose of court records. Retention Schedules set forth in the County Records Manual are based on type of document. Civil Records schedules are described in “Prothonotary” pages (see PY-6 and PY-7); for Criminal Records see “Clerk of Courts/Clerk of the Criminal Division” pages (see CC-10). Under Pa. RJA No. 507(b), the Supr. Court’s Admin. Office issued a “Record Retention & Dispositions Schedule & Guidelines” governing how <i>clerical personnel</i> supporting the Unified Judicial System should retain/dispose of judicial records <i>not otherwise under purview of the</i> 	<p>From County Records Manual, p. General Provisions-2: “Records may be destroyed or transferred in conformance with the provisions of Sections 3, 4 and 4.1 of the County Records Act... It is to be understood that the records schedules authorize and recommend, but do not require the disposal of records after the expiration of approved retention periods.”</p>	<p>For more on destruction & disposition of court records in PA, <i>see</i> John J. Dvorke, 1 Standard Pennsylvania Practice 2d §§ 2:222-2:229.</p> <p>Connection between PA State Archives as a division of the PHMC: http://www.portal.state.pa.us/portal/server.pt/community/about_the_archives/3177</p>

	<p><i>county officers</i> (and 507(a)). Thus, there are certain magisterial or municipal court civil & criminal documents, adoption records, etc. that fall within this subsection and are governed by this “Records Retention & Dispositions Schedule & Guidelines.”</p> <p>Under 42 Pa. C.S. § 4322 and County Records Manual “General Provisions-3”: “Historically valuable public records...should be maintained in a county operated archives/records center. If a county cannot adequately care for its own historical records, <u>provisions may be made to transfer select inactive records of historical value to the State Archives in accordance with the State Administrative Code</u>”</p> <p>Under 42 Pa. C.S. § 4327, it is possible for local museums and the like to petition—upon good cause shown—for the transfer of custody of “historical records” so that the museum may display them to the public. County officers or the court <i>sua sponte</i> may order the documents’ return at any time, with no good cause needed.</p> <ul style="list-style-type: none"> • Further, “As used in this section ‘historical document’ means any document formerly belonging to a decedent or any other person, which document is more than 50 years old and which is in the custody of a register of wills, the recorder of deeds, the clerk of any court or the prothonotary, except documents relating to adoption, divorce or custody.” 		
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7. South Carolina

- Destruction Paradigm: **Permissive**.
- Availability for Unaffiliated Cultural Institutions: **Yes**. However, permission is first needed both from Court Administration and the South Carolina Department of Archives and History.

Citations	Summary of Retention Paradigm	Summary of Destruction Paradigm	Notes
<p>S.C. Code § 30-1-10. (Definitions), <i>et seq.</i> See, in particular, § 30-1-80 (Records management program); § 30-1-90. (Archives shall assist in creating, filing and preserving records, inventories and schedules; § 30-1-110 (Destruction or other disposition of records); and § 30-1-130 (Microfilming or photocopying records; preservation or disposition of copies)</p>	<p>From the "Clerk of Court Manual," for County Clerks:</p> <ul style="list-style-type: none"> • <i>3.4 Records Retention and Disposition.</i> "Included in this manual are the records retention and disposition schedules developed by the South Carolina Department of Archives and History. These schedules have been approved by Court Administration and adopted by order of the Chief Justice. Prepared in accordance with the Code of Laws of South Carolina, 1976, § 30-1-10 through § 30-1-140, the schedules indicate the <u>minimum length of time that records must be retained ...</u>" (emphasis added) • <i>3.4.1 Description of Schedules:</i> "Separate schedules have been developed for records of the Circuit Courts of Common Pleas and General Sessions [i.e. Civil and Criminal, respectively; see court organization here], Family Courts, and for the miscellaneous 	<p>From the "Clerk of Court Manual," for County Clerks:</p> <ul style="list-style-type: none"> • <i>3.4.3 Schedule Implementation Procedures.</i> "Retention periods listed in the schedules represent the minimum amount of time that records must be retained. Once that retention period has been reached, the records may either be destroyed or transferred to an archives, as indicated in the schedules. If records are transferred to the South Carolina Department of Archives and History, an advance request must be submitted to that Department in writing, indicating the name or names of the record series, inclusive dates, and an estimate of the volume to be transferred. <u>Archival records should not be transferred to a local historical society, museum, public library, or other interested organizations or individuals without the written permission of Court Administration and the South Carolina Department of</u> 	<p>For more information, contact the Archives and Records Management Department at the South Carolina Department of Archives and History. http://arm.scdah.sc.gov/.</p>

<p>Retention Schedules issued pursuant to the Clerk of Court Manual</p>	<p>records maintained by the Clerks of Court.”</p> <p>Retention Schedules:</p> <ul style="list-style-type: none"> The Retention Schedules attached to the Clerk of Court Manual, and established pursuant to §§ 30-1-10, <i>et seq.</i>, vary based on type court and type of document. Courts of Common Pleas (civil) and General Sessions (criminal) fall within “Circuit Courts of General Jurisdiction.” Retention is based on the nature of the file (e.g. common pleas—i.e. civil—case files have permanent retention requirements, as do general sessions—i.e. criminal—files.) 	<p>Archives and History.” (emphasis added)</p> <ul style="list-style-type: none"> Records that are destroyed in accordance with approved retention schedules should be reported to the South Carolina Department of Archives and History on the Report on Records Destroyed form. A duplicate copy should also be filed in the Clerk of Court’s office to document the disposal of the records in accordance with the retention schedules.” 	
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8. Utah

- Destruction Paradigm: **Mandatory**. Destruction required after expiration of time period or the copying of the document to microfilm, digital image, or electronic medium.
- Availability for Unaffiliated Cultural Institutions: **No**. Only the Division of State Archives is expressly provided for as a recipient.
- Notes & Unique Features: A grant from the National Historical Publications and Records Commission has provided funding to arrange, describe, and microfilm the historic records of district courts from three counties in Utah from 1852-1955.

Citations	Summary of Retention Paradigm	Summary of Destruction Paradigm	Notes
<p>Utah C. § 63G-2-702. (“Applicability [of Government Records Access and Management Act] to the Judiciary”)</p> <p>Utah Judicial Council Rules of Judicial Administration, see Appendix F (“Utah State Court Records Retention Schedule”)</p> <p>Utah R. Judicial Admin Rule 4-202.09 (“Misc.”)</p> <p>Utah R. Judicial Admin Rule 4-203 (“Designating a case as historically significant”)</p>	<p>Utah Code § 63G-2-702 makes Utah’s Government Records Access and Management Act applicable to the Judiciary. The Judicial Council shall make rules governing retention and “provide standards for the management and retention of judicial records substantially consistent with Section 63A-12-103...</p> <p>The Utah Judicial Council Rules of Judicial Administration set forth the Retention Schedule adopted pursuant to Utah C. 63-G-702 (See Appendix F). Retention periods for “Critical Documents” are based on the nature of the matter (civil, criminal, juvenile, probate, etc.), with some being designated “<u>Permanent</u>”, and some ranging from <u>10 years</u> down to <u>6 mos.</u></p> <p>Utah R. Judicial Admin Rule 4-203 (“Designating a case as historically significant”). Establishes “a process by which records of a historically case can be assembled and retained permanently.” “Any time before a case is destroyed, any person may file in the court of origin a motion to designate the case as historically significant.” ...Any judge may designate a case as historically significant without a motion...If a case is designated as historically significant, the clerk of the court of origin shall...transfer the records to the State Archives for permanent retention.”</p>	<p>Destruction is mandatory as set forth in Appendix F of the Judicial Council Rules of Judicial Administration:</p> <ul style="list-style-type: none"> • “(B)(10) Record destruction. Court records 50 years of age or older shall be reviewed for historical significance by the Division of State Archives prior to destruction. If a record is of historical significance, the Division will take possession. If a record is not of historical significance, the court shall manage the record in accordance with this schedule. • “<u>Paper documents shall be destroyed after expiration of the retention period or after copying the document to microfilm, digital image, or electronic medium</u>...Each court is responsible for destroying records or making arrangements for destroying records. The court must comply with all laws applicable to the method of destruction. Confidential records must be shredded prior to destruction. Recycling is the preferred method of destruction. In addition, the court may destroy records by incineration or deposit in a landfill...” (emphasis added) 	<p>Utah State Archives: link to Records Management</p> <p>A grant from the National Historical Publications and Records Commission has provided funding to arrange, describe, and microfilm the historic records of district courts from three counties in Utah from 1852-1955. See http://archives.utah.gov/research/guides/courts-district.html</p>

9. Vermont

- Destruction Paradigm: **Permissive**.
- Availability for Unaffiliated Cultural Institutions: **Previously yes; currently no**. See “Notes & Unique Features” below.
- Notes & Unique Features: The Vermont Supreme Court Administrative Directive 16 on its face appears to allow broader disposition of court records to unaffiliated cultural institutions than the applicable statute authorizes the Supreme Court to make. 4 VSA § 659 authorizes the Supreme Court to issue an “Administrative Directive” pursuant to which historical/valuable court records can be transferred “to the archives of the secretary of state, the Vermont historical society, or the University of Vermont.” In 1987, the Vermont Supreme Court issued Administrative Directive 16 to implement 4 VSA § 659. Directive 16 authorizes such records to be given “to state and local historical societies or like organizations.” Thus, the Directive authorizes distribution to a wider swathe of recipients than expressly provided for by 4 VSA § 659. This may be a result of the fact that Directive 16 was issued in pursuant to an older version of 4 VSA § 659 which provided for transfer to “an appropriate institutional facility *such as the*...[University of Vermont, etc.]” Regardless, according to the Vermont State Archives & Records Administration (VSARA), as a practical matter, the historical court files are exclusively accessioned by VSARA, which was created in 2008. VSARA is working with the courts to oversee all records management, destruction, and preservation protocols, and is the sole depository.

Citations	Summary of Retention Paradigm	Summary of Destruction Paradigm	Notes
<p>4 V.S.A. § 659 (“Preservation of court records”)</p> <p>4 V.S.A. § 740 (“Court records; dockets; certified copies”)</p> <p>Vermont Supreme Court Administrative</p>	<p>4 V.S.A. § 659 (“Preservation of court records”): The Supreme Court of Vermont may issue an administrative order to provide for permanent preservation or destruction. In “cases where the original court record may have historical or intrinsic value,” the administrative order can provide for “transfer to the archives of the secretary of state, the Vermont historical society, or the University of Vermont.”</p> <p>4 V.S.A. § 740 (“Court records; dockets; certified copies”): The supreme court by</p>	<p>Vermont Supreme Court Administrative Directives: Directive 16 (“Destruction of Superior Court Records”) (Issued Pursuant to 4 VSA § 659)</p> <ul style="list-style-type: none"> • “Prior to any records being destroyed, the records are to be offered to <u>organizations that may wish to preserve and maintain the records</u>. The records will first be offered to the assistant judges of the county of the record's origin. If the assistant judges do not 	<p>In 2009, No. 91 (Adj. Sess.), § 7, repealed 4 V.S.A. § 659. However, it was re-enacted pursuant to 2009, No. 154 (Adj. Sess.), § 41.</p> <p>In a grant-funded project begun in Fall 2011, VSARA has</p>

<p>Directives: Directive 12 ("Destruction of Vermont Court Records")</p> <p>Vermont Supreme Court Administrative Directives: Directive 16 ("Destruction of Superior Court Records")</p> <p>Vermont Supreme Court Administrative Directives: Directive 16 Attachment ("Destruction of Superior Court Records")</p>	<p>administrative order shall provide for the preparation, maintenance, recording, indexing, docketing, preservation, and storage of all court records and the provision, subject to confidentiality requirements of law or court rules, of certified copies of those records to persons requesting them.</p> <p>**As explained in personal communication with archivist Scott Reilly at the Vermont State Archives & Records Administration (VSARA) on June 13, 2012**:</p> <p>"The management of archival court records in Vermont has not been as uniform a process as the statutes or regulations might lead you to believe. For decades prior to the creation of VSARA, courts routinely transferred their case files to the former Division of Public Records to be microfilmed. Once microfilmed, the courts were free to give away the paper records to historical societies, the University of Vermont, or other entities. Sometimes the courts chose to destroy the originals.</p> <p>Because courts predominantly were organized at the county level and operated more or less independently, each court managed its records as it saw fit ...Other courts have microfilmed nearly all of their records and then sent the paper records to small historical societies.</p> <p>With the creation of VSARA (which consolidated the state's records management program with the state's archival program), we</p>	<p><u>wish to maintain the records, the records will be offered to state and local historical societies or like organizations."</u></p> <ul style="list-style-type: none"> In addition, "as the above-mentioned records are microfilmed by the Division of Public Records, a duplicate copy is made of the microfilm for the assistant judges of the county of the record's origin. <u>It is further ordered the originals are to be offered first to the assistant judges of the county of the record's origin, then to state and local historical societies or like organizations; if at that point no one is interested, the originals are to be destroyed...</u>" <p>Vermont Supreme Court Administrative Directives: Directive 16 Attachment ("Destruction of Superior Court Records"): Sets forth actual retention/destruction time periods, and is based on type of record. For example, Civil Case Files: For purposes of <i>court retention</i>, "Retain at court for a period of 8 years after date of entry. Forward to Public Records." For purposes of <i>public access</i>, "Retain for 15 years after date of entry. Microfilm contents and destroy."</p>	<p>worked on archiving all historic Vermont county court records. From VSARA's press release about the project: "Dating from 1794 to 1945, the records chronicle not only the Vermont judicial system but also the larger American experience, and will expand perspectives on numerous issues, including crime and punishment, economics, and all facets of social history. Because they often provide details about the lives of individuals in a way that few other records do, court records also are particularly useful to genealogists and family historians.." See http://vermont-archives.org/publications/records/Fall2011/Fall2011_news_grant.html</p>
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	<p>are now working with the court system on their overall records program. Courts no longer transfer their records to whomever they like and the State Archives has been accessioning more and more of the historic court records. With changes to the state’s public records act within the past decade, the State Archives is now the sole repository for the state’s archival records. The State Archives also has recently begun an initiative where we are identifying where all of the records for a given court currently reside, and then are pursuing a program to consolidate those records in our holdings.”</p>		
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10. Wisconsin

- Destruction Paradigm: **Permissive.**
- Availability for Unaffiliated Cultural Institutions: **No, except for Univ. Wisconsin campuses and the Superior Public Library.** Only the Wisconsin Historical Society is an enumerated recipient by statute. According to the Wisconsin Historical Society’s web site, given the volume of records they receive, they may house the court records at Area Research Centers, which are located “at most of the four-year University of Wisconsin campuses and the Superior Public Library.”

Citations	Summary of Retention Paradigm	Summary of Destruction Paradigm	Notes
<p>Wis. Stat. § 19.21 (“Custody and delivery of official property and records”)</p>	<p>Wis. Stat. § 19.21 (“Custody and delivery of official property and records”)</p> <ul style="list-style-type: none"> • Provides that certain counties can 	<p>Wisc. Supreme Court Chapter 72: SCR 72.01 et seq. (“Retention and Maintenance of Court Records”)</p> <ul style="list-style-type: none"> • “A clerk of court, register in probate or other court records custodian may destroy records in 	<p>Wisconsin Historical Society web page regarding transfer of obsolete court records: http://www.wisconsinhi</p>

<p>Wisc. Supreme Court Chapter 72: SCR 72.01 et seq. (“Retention and Maintenance of Court Records”)</p> <p>Wisconsin Historical Society: “The Administration of Local Government and Court Records”</p>	<p>destroy obsolete records, <u>except for court records subject to Supreme Court Rule 72.</u></p> <p>Wisc. Supreme Court Chapter 72: SCR 72.01 et seq. (“Retention and Maintenance of Court Records”) Sets forth the retention time periods for court records based on type of record. For example:</p> <p>(1) Civil Case Files. All papers deposited with the clerk of circuit court in every proceeding commenced under chs. 801 to 847, stats.: 20 years after entry of final order...</p> <p>(15) Felony Case Files. All papers deposited with the clerk of circuit court in proceedings commenced as felonies: 50 years after entry of final judgment; except for Class A felonies, 75 years after entry of final judgment</p> <p>From the Wisconsin Historical Society’s page entitled “The Administration of Local Government and Court Records” “The [Wisconsin Historical] Society has statutory responsibility to collect, maintain and make available for use permanently valuable records of Wisconsin’s local governments and court system.”</p>	<p>his or her custody after minimum retention periods under SCR 72.01 have expired and after compliance with SCR 72.04. (2) Records defined as confidential by rule or statute shall be destroyed in accordance with sub. (1) by burning, shredding or other means that will obliterate the records.”</p> <ul style="list-style-type: none"> SCR 72.04 (“Offer of title to historical society”). <u>The custodian of the court record, prior to its destruction under this chapter, shall give at least 60 days’ notice of such destruction in writing to the historical society, which may preserve any records it determines to be of historical interest.</u>” (emphasis added) Notice is not required for any <p>From the Wisconsin Historical Society’s page entitled “The Administration of Local Government and Court Records” “Wisconsin Statute 19.21(5)(d) and Supreme Court Rule 72.04 require notification to the Society sixty days prior to the destruction of obsolete public records . . . Court Clerks should use form GF-110 ‘Notification to the State Historical Society’”</p> <p>Where the Records Will be Kept: “the Society's headquarters building in Madison or one of the thirteen Area Research Centers (ARCs). <u>The ARCs are located at most of the four-year University of Wisconsin campuses and the Superior Public Library.</u>”</p>	<p>story.org/libraryarchive/s/locrecs/locguide.asp</p>
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