

State audit faults Marin family court on mediators, procedures

By Gary Klien
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A long-awaited legislative audit of Marin's family court found that the court could not demonstrate that all of its child-custody mediators met minimum qualifications of training and continuing education.

The 113-page report, released Thursday, also concluded that the court did not log complaints about private mediators and evaluators over a four-year period, and that it needs to "strengthen" its policies on conflicts of interest.

The audit appeared to both satisfy and inflame parties on all sides, and it was far from certain that the bitter controversies surrounding Marin's divorce court would subside any time soon.

Kathleen Russell, executive director of the Mill Valley-based Center for Judicial Excellence watchdog organization, called the audit "scathing." Yet the court, in a joint statement by Presiding Judge Terrence Boren and director Kim Turner, portrayed the audit as a vindication.

"On February 25, 2009, Senator (Mark) Leno told the IJ, 'If there's no problem, there's no problem,'" the statement said. "Well, Senator Leno, there's no problem. This independent audit proves that point beyond any doubt."

Leno, who pressed for the audit, said the court officials apparently have "some denial going on."

"Clearly they have not read the many, many pages of recommendations from the auditor, and they've got their heads in the sand," the state senator said Thursday evening.

The review was initiated in July 2009 by

the state Joint Legislative Audit Committee at the request of Leno, a Democrat representing Marin and San Francisco, and other lawmakers. The action followed years of widespread complaints about divorce courts in California, with critics complaining of incompetent child-custody mediators and networks of politically connected court consultants.

The audit committee decided to focus its inquiry on the family courts in Marin and Sacramento counties, where criticism has been especially bilious. The audit committee discovered similar flaws in both counties.

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"Our audit found that both superior courts need to do more to ensure that the individuals who provide such services as mediation in cases before their family courts can demonstrate that they have the necessary qualifications and required training," auditors said.

"In addition, the two superior courts need to follow their established processes for handling complaints, to improve their processes for payments related to counsel appointed to represent the interests of minors involved in family law cases, and to strengthen their procedures for dealing with conflicts of interest within the family courts."

Auditors gave Marin court officials 13 recommendations for improving service, including taking "all reasonable steps" to ensure that mediators and specialists have the minimum qualifications and training, and to log and review complaints promptly.

Judge Boren, in a Jan. 7 response to State Auditor Elaine Howle, said the court will follow the recommendations, but added that eight of the recommendations "are not governed by laws, rules of court or any other directives."

"It is questionable as to whether some of the recommendations actually enhance internal

controls and accountability," Boren wrote. "Frankly, some of them fail the test of materiality from the court's perspective. "... Nevertheless, we intend fully to implement every recommendation contained in your report."

Leno said the audit's findings are "very disturbing" and "unequivocal." The Sacramento court at least acknowledged its problems firmly, he said.

"In the private sector, if I were to put a shingle on my door that said I was a psychologist or counselor and took in clients — and then it was revealed that I did not have the training or accreditation that I claimed to have — I'd be in big trouble and probably be taken to court," Leno said. "But it appears that if you do that in family court, there's no consequence."

Russell, of the Center for Judicial Excellence, also said the audit's findings were "quite disturbing."

"We finally have credible government data to back up the years of horrific complaints from Marin parents and children whose lives have been devastated by a family court system run amok," she said.

But Boren and Turner, in their joint

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statement, accused the court critics and "their media machine" of exploiting the emotions of vulnerable parents.

"The CJE has capitalized on its criticism of the family court to garner publicity for itself and its members, at the expense of parents who have misplaced their trust in CJE to use political activism to pressure judges to rule more favorably in their cases," the court officials said.

"Family court critics have been recklessly — and falsely — accusing the court, its judges and other court staff of gross malfeasance and worse, for years. Their goal has been to destroy the public trust in our courts. It's time for the public to say enough is enough."

Leno said the auditing process is not complete, and that state auditors will meet with court officials in Marin and Sacramento three times over the next year to see whether the recommendations are being followed. If not, "there will be legislative response to bring them into compliance," he said.

The full audit report is available at <http://www.bsa.ca.gov/reports/summary/2009-109>.

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