

**29.0 RETENTION AND DESTRUCTION OF RECORD EXHIBITS**

- (A) **Scope.** The purpose of this rule is to provide minimum standards for the maintenance, preservation, and destruction of records within the court. The rule applies for the duration of an evidentiary hearing, trial, and appeal time, in accordance with the schedules set forth in Sup.R. 26.01 to 26.05 and R.C. 2933.82.
- (B) **Definitions.**
- (1) **Exhibit.** Any document, device, or item, regardless of physical form or characteristic, created, introduced, produced, proffered, received, or exhibited at an evidentiary hearing or trial.
  - (2) **Inventory List.** A written index created by the record custodian identifying exhibits, depositions, and transcripts.
  - (3) **Permanent Record.** All exhibits, depositions, transcripts, and the inventory list maintained in compliance with this rule.
  - (4) **Record Custodian.** Any person or agency responsible for the care and control of the permanent record.
- (C) **During Hearing or Trial.** The record custodian will receive and hold all exhibits proffered or admitted into evidence during the hearing or trial of any case, and will be responsible for the security and storage of those exhibits, except weapons, ammunition, currency, controlled substances, biological evidence, pyrotechnic or explosive devices, or contraband, as described in R.C. 2901.01 (A)(13).
- (D) **Conclusion of Hearing or Trial.**
- (1) **Evidence Not Retained by Record Custodian.** Weapons, ammunition, currency, controlled substances, biological evidence, pyrotechnic or explosive devices, or any contraband as described in R.C. 2901.01 (A)(13), or oversized demonstrative items of evidence will be retained by the party, counsel, or agency offering such evidence pursuant to all applicable rules and statutes governing the retention of such evidence.
  - (2) **Evidence Retained by Record Custodian.** All other evidence will be retained by the record custodian in conformance with Paragraphs F and G of this rule.
  - (3) **Inventory Procedures for All Evidence.**
    - (a) The record custodian will compile the inventory list of all exhibits by listing the exhibit number or letter with a brief description of the exhibit. The inventory list will state which party or agency representative is retaining the evidence.
    - (b) Each party and the judge or magistrate will sign the inventory list.
    - (c) Each party will receive a signed copy of the inventory list.
    - (d) The record custodian will retain one copy of the inventory list as part of the permanent record.
- (E) **Form of Exhibits.** Any exhibits which are part of the permanent record of the case are limited to 8 ½" x 11" in size (letter size). The party responsible for the exhibit will ensure that oversize or three-dimensional exhibits are reduced by photograph or duplication and approved by the judge or hearing officer for inclusion into the permanent record as an exhibit.
- (F) **Time Limits Criminal Cases.**
- (1) **Capital or Life Sentence Convictions.** Exhibits admitted, including exhibits in which forensic testing was performed, in cases where the maximum possible sentence is lifelong incarceration or the death penalty, must be permanently retained in the custody of the party, counsel, or agency who took receipt of the evidence and signed the inventory list in accordance with Section D of this rule.

## Cuyahoga County Common Pleas Court Local Rules

- (2) **Other Criminal Convictions.** Exhibits in all other felony cases must be retained for five years from the date of the final entry of the conviction. Exhibits in misdemeanor cases must be retained for one year.
  - (3) **Acquittals.** In cases in which a defendant has been acquitted, the exhibits will be immediately returned to the parties with the inventory list signed by all parties and the judge in accordance with Section D of this rule.
  - (4) **Hung Juries.** In cases of a hung jury, exhibits will be returned to the party in accordance with Section D of this rule or held by the record custodian in evidence at the discretion of the judge.
  - (5) **Destruction of the Exhibits.** Prior to destruction of exhibits in criminal cases, the record custodian must send written notification to the party or agency who submitted the exhibits and require the prosecutor's office to notify the victim or victim's family that:
    - (a) Exhibits may be retrieved within 60 days from the date of the notification and of the location and time to retrieve the exhibits;
    - (b) Exhibits will be destroyed if not retrieved within 60 days of the notification;
    - (c) The party or agency may file a motion to prevent destruction of the exhibits within 60 days of the notification. If a motion to prevent destruction of exhibits is filed under this rule, the court must set the motion for hearing prior to ordering destruction of the exhibits.
- (G) **Time Limits Civil Cases.**
- (1) **Real Estate Cases.** Exhibits in matters that result in a final judgment determining the title or interest in real estate must be permanently retained.
  - (2) **Civil Cases under Appeal.** Exhibits in civil cases under appeal will be retained for three years from the date of the final judgment entry.
  - (3) **Civil Cases not Appealed.** Exhibits in civil cases which have not been appealed will be held for one year.
  - (4) **Destruction of Exhibits.** Prior to destruction of exhibits in civil cases, the record custodian must send written notification to the party or agency who submitted the exhibits that:
    - (a) Exhibits may be retrieved within 60 days from the date of notification and of the location and time to retrieve the exhibits;
    - (b) Exhibits will be destroyed if not retrieved within 60 days of the notification.
- (H) **Extension of Retention Period.** The court may order the retention period for an individual case extended beyond the period specified in this rule or Sup R. 26 to 26.05 at its discretion.

*Effective 10/18/2021.*