



May 7, 2024

Don Allgood Senior Operations Director Okaloosa County Clerk of Court & Comptroller 101 E. James Lee Blvd Crestview, FL 32536

Mr. Allgood,

Please find attached the report on our audit of the Clerk of Court & Comptroller Evidence Room/Vault.

Our work served as a review of the Department's current Evidence/Room Vault controls, conformance with best practices, and comparison of evidence records against physical location of evidence.

I want to thank Thressa Wilcox and her Records Management Team for the cooperation and accommodation afforded us. Should you have any questions please do not hesitate to call me at (850) 689-5000 Ext. 3432.

Respectfully,

Rense F. Larkey

Renee F. Larkey, Inspector General

CC: J.D. Peacock, Okaloosa County Clerk of Courts Brad Embry, Chief of Staff John Anderson, Chief Deputy of Operations

OKALOOSA COUNTY CLERK OF CIRCUIT COURT



DEPARTMENT OF INSPECTOR GENERAL





REPORT ON THE AUDIT OF CLERK OF COURT & COMPTROLLER EVIDENCE VAULT

REPORT NO. COC 24-01 REPORT ISSUED MAY 7, 2024

ISSUED BY: RENEE FENNELL LARKEY, INSPECTOR GENERAL

Background

Historically when Clerks have transitioned an Evidence Room Audit is conducted. The year 2024/2025 is a transition year for the current Clerk and he requested an audit be conducted of the Evidence Room/Vault policies and controls.

Objective

The objective is to ensure compliance with Record Management Policy and Florida Clerk of Courts Best Practices (FCoCBP), and that the internal controls on evidence storage are efficient and effective.

Scope & Methodology

The Scope and Methodology did encompass a review of all Okaloosa County Clerk of Court & Comptroller Record Management Policies as of September 30, 2023 regarding the storage and destruction of evidence, a comparison of those policies with FCoCBP, and comparison of evidence records to their physical location in the Evidence Room/Vault.

Process

Once custody of evidence has been given to the Clerk, it is labeled, recorded, and stored in the Evidence Room/Vault or if the item(s) is very large it is kept in an off-site secure storage area. The following policies govern the acceptance, storage, and destruction of evidence; 6001 Exhibit A, 6147 Exhibit B, 6164 Exhibit C, and 6504 Exhibit D. Exhibits A-D are attached to this report.

Testing

A random sample of the location of 100 items was pulled from Benchmark where the living document is kept of all stored evidence. The random sample was divided amongst four (4) of the IG team members, who were then paired with two staff members of the records management team. The records management team was told by the IG member the location of each item on the random sample and they retrieved the item one by one from the vault in the presence of the IG team members. All 100 items were located, although two items were mislabeled but were ultimately located in the appropriate bin in the Evidence Room/Vault. A third item was in the appropriate bin but the tag identifying the item had fallen off. This item was from a 1987 case.

Records management staff did adhere to current policies which were compared to FCoCBP. The Clerk's policies and the FCoCBP agree, where applicable to the size of the agency. IG team members also observed an inventory of evidence conducted by Records Management in accordance with their policy which states an inventory of randomly selected items will be conducted every nine months. During the entrance meeting Records Management stated the Clerk policies regarding evidence storage and destruction were modeled after the FCoCBP.

Conclusion

After a review of the Okaloosa County Clerk of Court & Comptroller policies regarding the storage and destruction of evidence, it was determined there are adequate controls to ensure the efficient and

effective storage of evidence in accordance with FCoCBP. Current policies were being followed, with the exception of Finding 1.

Finding 1: Key Access

<u>Condition</u>: At the time the audit was initiated and the IG team members were observing the in-house inventory audit of the Evidence Room/Vault, it was determined that there was the potential for unauthorized access to the Evidence Staging Area. All IG badges were swiped and were granted access to the room, as well as a Court Financial Team member, the Training Coordinator for the Clerk, and an IT Team Member. Access to the Evidence Staging Area should only be allowed for Records Management Team Members, according to Records Management rules.

<u>Criteria</u>: The Evidence Staging Area access should be limited to those individuals needing/requiring access to further the labeling and storage of evidence, releasing of evidence, or recovery of evidence after hearings.

<u>Cause:</u> Without strict adherence to the limit of access, evidence could be compromised, lost, or removed by unauthorized personnel. In this case, Court Administration requested a list of all persons who had accessed the Evidence Staging Room after August of 2023 and the list was reviewed by the IG Team Members. There was no questionable personnel access to the Evidence Staging Room during the time reviewed.

<u>Effect:</u> If evidence is lost, removed without authorization, or compromised it could give rise to legal issue regarding the case(s) the evidence is associated with, or liability should the item need to be returned to its owner when the case is resolved.

<u>Recommendation</u>: The issue was immediately brought to Records Management's attention and was rectified the following day. Communication between the Records Manager, HR, and the Court Administrator who grants the different access levels, resolved the issue.

Management Response

The finding is correct and as stated immediate action taken to correct the situation. The list is defined as to access and a control added that requires testing the access at regular intervals to discover any changes made to the granting of access.

We want to take this opportunity to thank all the members of the team for their assistance in identifying the testing that is required to ensure the necessary controls are in place for the security of the exhibits under the clerk's custodianship.

Received via email 05/06/2024



Subject: Exhibit Storage & Destruction Document Number: 6001

Effective Date: July 7, 2016 Revision Date: February 21, 2024

Purpose: To ensure the most effective procedures will be implemented in compliance with legal requirements set out by the Florida Laws and Florida Rules of General Practice & Judicial Administration.

References: Fla. R. Gen. Prac. & Jud. Admin. 2.430(f)(1&2); F.S. 28.213; 406.136; 705.105(1); 925.11; 790.08(2); 790.08(3); 849.37(4); Gun Control Act (18 U.S.C. 922(d)); FCCC Best Practices – Evidence Storage & Destruction*

*Not in its entirety. Those items with which we do not follow, we prefer to follow the Florida Rules of General Practice & Judicial Administration.

Definitions:

Exhibits – An item of physical/tangible evidence which is to be or has been offered to the court for inspection during a hearing or trial, which after being accepted, is marked for identification, and admitted into the court record.

Chain of Custody – After admission into the court record, the Office of the Clerk of Court must account for the custody of the exhibits from the moment in which it is admitted, throughout the hearing/trial, throughout the processing of the exhibits, and storage.

Biohazard(s) – A biological agent, such as an infectious microorganism, that constitutes a threat to humans or to the environment.

PROCEDURE FOR STORAGE:

The primary goal of this procedure is to maintain the integrity and chain of custody of exhibits while ensuring its safe keeping and security by following the guidelines below:

- 1. The exhibit vault should contain a safe for additional security.
- 2. The exhibit vault should be climate controlled and equipped with a fire suppression system.
- 3. A numbering system for shelves, boxes, and storage areas should be developed for easy access and identification.



- 4. When storing exhibits, it should be maintained under the exclusive control of authorized employees.
- 5. Dual verification of all exhibits received for storage is required for an accurate chain of custody. Verify all exhibit stickers and tags against the court clerk's Exhibit Inventory list from a hearing or tail. All currency should be sealed in clear plastic bags and counted when first received as an exhibit, if unsealed by the court, and then again when placed in storage, if previously unsealed by the court.
- 6. All exhibits should be entered in the evidence tracking system upon receipt reflecting identifying information case number and styling of case along with the location in which the item will be stored.
- 7. All evidence should be stored in the original packaging when entered as an exhibit taking safety, security, and ease of identification into consideration.
- 8. Currency is a sensitive exhibit and should be stored in a safe for enhanced security. Two staff members are to be available when handling sensitive exhibits. Organic drugs should be sealed into bags to reduce the change of mold. All firearms should be sealed in either a gun safe or separate box. The make, model, and serial number of the firearm should be noted.
- 9. Photographs, videos, or audio recordings depicting or recording the killing of a person are typically confidential (F.S. 406.136). However, a criminal or administrative proceeding is exempt from that section. A court, upon good cause, may otherwise control the disclosure of a killing, crime scene, or similar photograph, video, or audio recording. (Disclosure: The Okaloosa County Clerk of Court's office does not provide access to these items. Exception: by court order.)
- 10. Biohazards should be stored on the lowest level shelving and separate from all other exhibits. Biohazards should be stored in boxes with stickers indicating such on the outside of the box. A procedure for proper handling should be followed in handling biohazards to prevent the transmission of contaminants and ensure safety.
- 11. Exhibits in storage should be inventoried and/or audited based on a schedule adopted by the office.
- 12. An Exhibit Change of Custody form should be completed when transferring custody to another agency. A record must be maintained for all exhibits passing into and out of Records Management custody and control. A court order is required for exhibits to be released, out of the



office, to any person or entity other than pursuant to a disposal and destruction process.

DISPOSITION/DESTRUCTION - CIVIL EXHIBITS/EVIDENCE:

The objective of the disposition/destruction of exhibits is to ensure retention has been met in a timely and lawful manner by maintaining a record of the destroyed exhibits always following protocol for safety and security.

- 1. Civil exhibit destruction is to be done in compliance with Fla. R. Gen. Prac. & Jud. Admin. 2.430(f)(2). The rule permits destruction 90 days after a judgment has become final in cases which no appeal or collateral attack is pending or can be made.
- 2. Once the exhibits are determined to be eligible for destruction, a "Notice of Intent to Dispose of/Destroy Exhibits" should be prepared and provided to the parties and/or their attorneys of record. It should provide no less than 30 days' notice of the clerk's intent (form listed as an attachment to this procedure). Exhibit can be claimed during the 30day time period. Competing claims for exhibits will be settled by the court.
- 3. If no one claims ownership of the exhibits during the 30-day period, the exhibits will be destroyed or disposed of. Complete the destruction/disposal certificate and add it to the case maintenance system in the corresponding case.
- 4. Destruction/Disposal Certificates with supporting documents must be docketed and imaged into the case management system or filed in supplemental pleadings.

DISPOSITION/DESTRUCTION OF CRIMINAL EVIDENCE

1. Criminal exhibits disposition/destruction is to be done in accordance with F.S. 28.213 and Fla. R. Gen. Prac. & Jud. Admin. 2.430(f)(I) and other specific statutes. Physical evidence which has been held as exhibits for more than 3 years, in which no appeal or collateral attack is pending or can be made.*

*Concerns on pending or future collateral attacks should be addressed by the state attorney's office.



- 2. If exhibits relate to a capital offense (life or death sentence), the exhibit(s) must be retained for the life of the defendant. Additional requirements may be imposed.
- 3. Once the exhibit(s) is/are eligible for disposition or destruction, the case number will be included in the list of cases sent to the state attorney's office for review. The state attorneys' office will make a determination of the cases in which the exhibits may be disposed/destroyed.
- 4. When approval is received from the state attorney's office of a 30-day notice period has expired without objection, Records Services can proceed to dispose/destroy the exhibits.
- 5. Upon receipt of an approval from the state attorney's office, there should be dual verification of a list of exhibits to be pulled for disposal/destruction against the exhibit list in the court file.
- 6. Physical exhibits that may contain DNA should be retained and destroyed per the guidelines set forth by F.S. 925.11.
- 7. For criminal convictions involving firearms, weapons, obscene materials, etc., the sheriff's office should be contacted to arrange for the transfer of such items into its custody in accordance with F.S. 790.08(2). If the sheriff's office is unable to send someone to pick-up the exhibits, arrangements should be made to have a deputy sheriff escort clerk staff to the sheriff's department to transfer the exhibits to that facility. A representative of the sheriff's department and two (2) deputy clerks should sign a transfer form.
- 8. Weapons, electric weapons/devices or firearms that qualify to be returned to any person acquitted of an offense involving the use of such items will be transferred to the sheriff's office for return pursuant to F.S. 790.08(3).
- 9. A local refuse company, or other vendor, and the sheriff's office should be contacted, and arrangements made for transporting and incinerating narcotics and medication. Local law enforcement should escort two (2) deputy clerks to the refuse company, or other vendor, to witness destruction. A certificate of compliance should be signed by all present.
- 10. A vendor, or appropriate agency should be notified when car batteries, batteries, or noxious/flammable materials need to be transferred to their facility for destruction. A representative of the agency and two (2) deputy clerks should sign a transfer form.
- 11. Arrangements for the disposal of items marked with biohazard stickers will be made with a vendor or local agency for destruction with their biohazard materials.



- Items admitted as exhibits for cases involving gambling laws pursuant to chapter 849 of the Florida Statutes are to be destroyed per F.S. 28.213, except for machines, apparatuses, or devices. See F.S. 849.37(4) requiring the sheriff to hold such property seized pending its disposal by the court.
- 13. Complete a compliance/destruction certificate for each case with the Exhibit Inventory List attached identifying what is being destroyed and by what method certified by a deputy clerk. Add the compliance/destruction certificate to the case management system in the corresponding case or supplemental pleadings.

SALE OF EXHIBITS PAST RETENTION

F.S. 28.213 gives the clerk the right to sell exhibits possessing monetary value after appropriate retention periods have lapsed. In the event of a public sale, revenue from the sale shall be deposited into the clerk's general revenue fund.



Subject: Exhibit Retrieval & Scheduled Destruction **Document Number: 6147**

Effective Date: 11/19/2020 Revision Date: February 20, 2024

Purpose: To retain and dispose of exhibits as set forth in the Judicial Rules of Administration 2.525 and Best Practices.

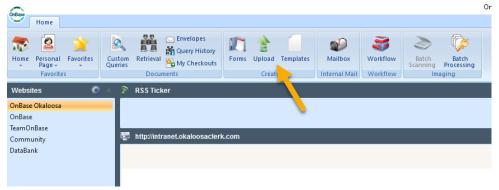
- 1. Records Management will generate a weekly list of items/exhibits ready for destruction. List and certificates of destruction will be delivered to File Management for retrieval.
- 2. Pull identified items/exhibits and place them in the destruction holding area. (Designated area in warehouse)
- 3. Schedule shred with Gilmore Services or designated company per State of Florida contract pricing. Schedule on as needed basis via phone call or email to scheduling department.
- 4. Create Record Disposition form. Form will be created at time exhibits are pulled and shred date will be added at the time of onsite shred or pickup by the designated provider.
 - a. Inclusive Dates should be notated
 - b. Case Type or Series to be identified
 - c. Attach any additional information to the form



| AGENCY CONTACT (Name and Telephone Number) () - Ext. |
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| d in Item 5 are to be disposed of in the manner checked below (specify only restruction c. Other |
| e disposed of are correctly represented below, that any audit requirements retention is not required for any litigation pending or imminent. |
| Name and Title Date |
| LIST OF RECORD SERIES |
| d. e. Volume Disposi Retention Dates Cubic Date Adata Authoriz |
| ted 7. DISPOSAL CERTIFICATE: The above listed records have been |
| ndicated. disposed of in the manner and on the date shown in column g. |
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- 5. Scan completed Record Disposition form and any attachments in to the OnBase program
 - a. Open OnBase and click on the upload icon



- b. Click on document type group and select Records Management
- c. Click on document type and select court exhibit disposition. File type and date will automatically be entered.





- d. Enter applicable info into the appropriate fields
- e. Click on the Acquire icon. Place document in scanner to scan.
- f. After scanning, click upload icon to complete.



Subject: Exhibit Processing & Tracking Document Number: 6164

Effective Date: December 21, 2020 Revision Date: February 26, 2024

Application: Benchmark

Purpose: To properly process exhibits received from the Court Services Department that are ready to be processed for storage in the vault or at file management.

*Gloves should be worn when going through the paper exhibits. For physical exhibits, wear gloves, mask, and if needed, the body suit.

All criminal exhibits (Court Types: CF, CJ, CT, MM, MO, CO) will be stored in the Vault. All paper exhibits that are not criminal will be sent for storage at file management.

- A) Verify Exhibits Received
 - Verify all exhibit stickers and tags against the Clerk's exhibit inventory list that was completed by Court Services. In the event of a discrepancy or question, email <u>courtteam@okaloosaclerk.com</u> for clarification.
 - a) Review the following:
 - (i) Case number on Clerk's Exhibit Inventory matches case number listed on exhibit stickers and/or tags.
 - (ii)Initial next to each item, indicating that the item has been received and no clarification is needed.
- B) Update and Complete Clerk's Exhibit Inventory
 - 1) Enter the date they are received by Records Services to be processed for storage and sign.
 - 2) Enter the Exhibit(s) Box Number
 - a) Criminal Cases: Check for the next box number by reviewing the last box number used. Enter the box number(s) on the Clerk's Exhibit Inventory
 - b) Non-criminal Cases: For paper exhibits indicate "File Management" as the exhibit box number. Send these items to "file management" for storage.



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| Attorney | Attorney | | | | | | |
| EXHIBITS SUBMITTED: | EXHIBITS SUBMITTED: | | | | | | |
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| Ву: | (3)DC | | | | | | |
| Exhibits filed in Box Number{4} | | | | | | | |

- C) Add Updated Clerk's Exhibit Inventory into Benchmark
 - 1) Enter the case number and open the corresponding navigate. Navigate to the dockets tab.
 - (i) Select the docket entry containing the "Clerk Exhibit Inventory" that you are currently processing
 - (ii)On the toolbar on the image viewer, click the red tool box > Select "Insert Page(s) Before Current Page" > scan the updated clerk exhibit inventory into the case > review the document to make sure the image is legible

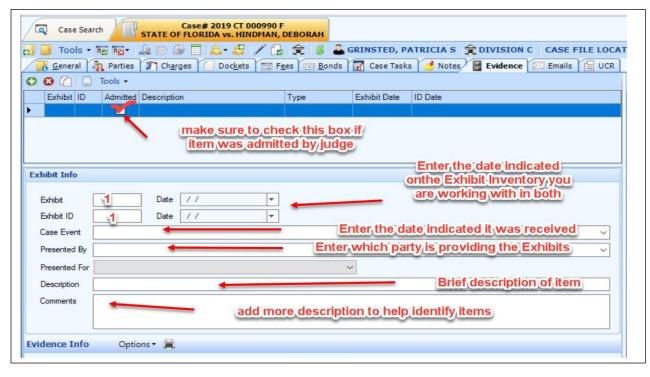


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- D) Update the Evidence Tab in Benchmark
 - 1) Add each exhibit to the evidence tab in the corresponding case within Benchmark
 - a) Click Evidence Tab > Click "+" icon > Complete the "Exhibit Info" section
 - (i) Exhibit: enter the letter or number that is listed on the exhibit inventory
 - (ii)Date: Enter the admitted date that is listed on the exhibit inventory next to the exhibit
 - (iii) Exhibit ID: enter the letter or number that is listed on the exhibit inventory
 - (iv) Date: Enter the admitted date that is listed on the exhibit inventory next to the exhibit
 - (v) Case event: select the corresponding case event from the drop down menu
 - (vi) Presented by: Select the corresponding party that submitted the exhibit
 - (vii) Description: give a brief description of exhibit (i.e. DVD, pants, etc)
 - (viii) Comments section: enter complete description as listed on the exhibit inventory (i.e. – DVD of Deputy Blue body cam)



- (ix) If the exhibit was admitted, be sure to check the admitted box located in the top section of the evidence tab
- b) Correcting Errors: If an error is made, make the necessary corrections. If error cannot be corrected, update the Exhibit ID to "error". In the comment section: Give a detailed explanation of the error. In the location field in the evidence section update it to "Current Exhibit Errors". Make a new line entry for entering the correct information.
- c) Items should not be deleted, and if a deletion is needed, the system will require manager approval



- 2) Complete the "Evidence Info" Section
 - a) If the exhibit is a "biohazard", check the biohazard box.
 - b) Ev. Type: select the proper evidence type from the drop-down
 - c) Security: leave blank
 - d) Hold: do not mark
 - e) Release:
 - f) Description: this will auto-populate with the same description from the exhibit info section



- g) Comments: this will auto-populate with the same comments from the exhibit info section
- h) Click Select Location: Choose the location from the available options. If there are already items in the vault for the case you are working in, select the same location as those items currently stored in the vault. If no items currently in the vault for the case, select the next box location. The next box location can be located on the sign-in sheet for vault entry. Click Ok.

(i) Repeat these steps until all items have been updated.

i) Place exhibits in the proper location within the vault.

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Subject: Exhibit Vault Access

Document Number: 6504

Effective Date: December 3, 2014 Revision Date: February 23, 2024

SUBJECT:

This procedure shall establish practices relating to Exhibit Vault access. Such practices are necessary to ensure that the exhibits contained therein are properly managed.

PROHIBITIONS:

At no time will the vault be accessed by less than two deputy clerks. The vault will not be left unattended while unlocked.

PROCEDURE:

- Access to the vault requires a key and swipe badge. No individual shall have access to both.
- Two deputy clerks will always be present when the vault is opened and/or occupied. If emergency access is necessary, the logs will be noted with proper documentation and the combination will be re-set.
- Information as to the name of the deputy clerks, the date, the time, and the purpose for access will be entered in the Vault Access Log every time the door is unlocked. The log will be signed by both deputy clerks. On the first day of each month, the Vault Access Log will be loaded into OnBase for the previous month, i.e. – The log for January will be loaded on February 1.
- All items moved into or removed from the vault, permanently or temporarily, will be entered in the Inventory Tracking Log. On the first day of each month, the Inventory Tracking Log will be loaded into OnBase for the previous month, i.e. - the log for January will be loaded on February 1.
- Upon exiting and closing the vault door, both deputy clerks will ensure that the door is indeed locked.
- The vault contents will always be properly updated/inventoried. A significant sampling shall be performed every nine (9) months, in the



presence of two deputy clerks. Access to the vault will be granted to the necessary individuals for spot-inspections and audits as deemed necessary during the course of business.

• The <u>Vault Access Log</u> and the Inventory Tracking Log shall have a retention value of 75 years.