

**Allegheny County Rules of Judicial Administration. Criminal Division: Custody of Exhibits in Court Proceedings.**

**Rule 5101.3 Criminal Division Custody of Exhibits. Definitions**

- (a) The following words and phrases when used in these rules shall have the following meanings, unless the context clearly indicates otherwise, or the particular word or phrase is expressly defined in the chapter in which the particular rule is included:
1. "Court proceeding." Any trial, hearing, argument or similar event before a judge, panel, or hearing officer where evidence, if entered, is on the record. It does not include a proceeding before a Magisterial District Court.
  2. "Custodian." The custodian shall be the proponent of the exhibit. Custodian shall also include the custodian's designee. However, where circumstances occur that the proponent is unable to serve as custodian, either a member of court staff, court reporter, clerk of court, and/or hearing officer may serve as custodian, as designated by the presiding judge, consistent with Rule of Judicial Administration 5103(d).
  3. "Exhibit." A document, record, object, photograph, model or similar item offered into evidence whether or not admitted, in a court proceeding.
  4. "Proponent." A party seeking the admission of an exhibit into the record in a court proceeding.
  5. "Records office." The Allegheny County Department of Court Records, Criminal Division ("Department of Court Records") will serve as the records office for the Allegheny County Court of Common Pleas Criminal Division.
- (b) For any words and phrases not defined by these rules, meaning may be discerned through examination of its dictionary definition and its legal meaning may be gleaned from its use in an application body of law.

**Rule 5102.3 Criminal Division Custody of Exhibits. General Provisions**

- (a) In all Criminal Division court proceedings, the trial judge must designate an individual who shall serve as that party's custodian of exhibits throughout the court proceedings and until such time as the court proceedings conclude.
1. The custodian of exhibits shall be identified at the outset of the court proceedings, and all parties' custodian's names shall be placed on the record. The default custodian shall be the trial for each party who enters an appearance in the particular proceeding.
  2. The Court shall identify a Court custodian whose role during the court proceedings shall be limited to locking the Courtroom at the conclusion of each day of the court proceedings and opening the Courtroom at the beginning of each day of the court proceedings. The default court custodian shall be the courtroom tipstaff.

3. If the Court determines that a *pro se* party is unable to perform the duties of a custodian, stand-by counsel will serve as the custodian. In the event that stand-by counsel has not been appointed, the Public Defender's Office will be appointed as custodian.
- (b) During and throughout the court proceedings, including breaks and recesses, the custodians shall secure and maintain all exhibits, unless otherwise provided in Pa. R.J.A. 5103(c)-(d).
  - (c) The trial court judge shall maintain a paper record of all exhibits along with an index, using the number or letter used by the proponent, noting whether the exhibit was admitted or rejected.
  - (d) After court proceedings the exhibit custodian(s) shall:
    1. Retain or take custody of all documentary exhibits, photographs, and photographs of non-documentary exhibits accepted or rejected during the court proceedings. All other physical evidence, including but not limited to weapons, drugs and biological material will remain in the custody of the affiant.
    2. File all documentary exhibits, photographs, and photographs of non-documentary exhibits with the Department of Court Records office within five (5) business days of the conclusion of the court proceedings unless otherwise directed by the Court;
      - a. Prior to the filing, the exhibit custodians shall reconcile the exhibit index with the Court.
      - b. The custodians filing exhibits shall include an index of exhibits.
      - c. The index shall identify the exhibit using the number or letter used by the proponent during the court proceedings, whether the exhibit was admitted or rejected from evidence, and provide a description of the exhibit.
      - d. A stamped copy of the filed index of exhibits shall also be provided to the court custodian after filing with the Department of Court Records.
    3. Secure and maintain all other non-documentary exhibits as directed by the Court, or as agreed to by the parties.
    4. If one or both parties fails to file the exhibit index, the Court, sua sponte or at the behest of either party, may issue an order granting appropriate relief and/or schedule a hearing.
      - a. If a custodian determines that another party's custodian has not filed the exhibits pursuant to this rule within five (5) business days, the complying party or parties may seek appropriate relief with the Court regarding the non-compliant custodian's failure to file their exhibits.

*Comment: The Parties may benefit from working collaboratively to stipulate to those unobjectionable trial exhibits, prior to trial, and file said stipulation(s) with accompanying index of exhibits, and exhibits, with the Department of Court Records.*

### **Rule 5103.3 Criminal Division Custody of Exhibits. Special Provisions**

- (a) Oversized exhibits and large photographs exceeding 8 ½ x 11 inches shall be reduced in size and/or photographed so that the copy or photograph of the physical exhibit can be photocopied/scanned on to 8 ½" x 11" inch paper for filing. This shall be done by the custodian of such exhibits.
  - 1. In addition to photocopying the oversized physical exhibit the party seeking to admit said physical exhibit shall be responsible for maintaining said physical exhibit until the conclusion/completion of the trial, all post-trial events, appeals and appellate procedures.
  - 2. A proponent who provides a reduced copy of an oversized exhibit shall ensure that the reproduced document is clear and capable of further reproduction or transfer to digital media.
- (b) Use of Digital Media. A proponent shall ensure that an exhibit in digital format entered into the record is in a format compatible with court equipment.
- (c) Duplicates. The Court may direct that the original item and not a duplicate, be entered into the record.
- (d) Exhibits Under Seal. If an exhibit offered into evidence contains confidential information or confidential documents as defined by the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* ("Policy"), the proponent shall file a copy of the exhibit and a certification prepared in compliance with the Policy, and Department of Court Records requirements, with the Department of Court Records.
  - 1. Any exhibit sealed by the Court during the court proceedings shall not be accessible to the public.
- (e) Exclusion. This Rule does not apply to record hearings that may be appealed *de novo* to the Court of Common Pleas, Criminal Division.
- (f) Parties shall provide copies of exhibits to the trial judge, at the time of the trial, however, neither the Court custodian of the exhibits, nor the trial judge shall be responsible to file exhibits.
- (g) The Court of Common Pleas, Criminal Division will not store or maintain exhibits following the conclusion of the trial or court proceedings for which the exhibits were used.