

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
ARIZONA CODE OF JUDICIAL) Administrative Order
ADMINISTRATION § 2-101:) No. 2015 - 119
RECORDS RETENTION AND)
DESTRUCTION SCHEDULE)
_____)

The above-captioned provision having come before the Arizona Judicial Council on December 10, 2015, and having been approved and recommended for adoption,

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that the above-captioned provision, attached hereto, is adopted as a section of the Arizona Code of Judicial Administration.

Dated this 16th day of December, 2015.

SCOTT BALES
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 2: Appellate Courts
Chapter 1: Supreme Court
Section 2-101: Records Retention and Destruction Schedule

A. Definitions. In this section the following definitions apply:

“Case Data” means the electronic information about a case, but not images of documents, maintained by the clerk or the court, generally found in a case management system, and often posted to the web or the court’s website.

“Case file” means all documents and other material filed with the clerk of the court in an action or proceeding either in paper or electronic format, and includes items such as CDs, DVDs, and transcripts. Case file includes case data.

“Docket” means the case number, case type, party name, case decision, date of destruction and the original listing of documents/orders filed in the case.

“State Library, Archives and Public Records (LAPR)” means the division of the Arizona Secretary of State that is the archives for Arizona state government, which is mandated by law to collect, preserve and make available to the public and all branches of government, permanent public records, historical manuscripts, photographs, and other materials that contribute to the understanding of Arizona history.

B. Authority. Az. Const. Art. 6 §§ 3 and 7 authorize the supreme court to administer the courts of this state. Rule 29, Rules of the Supreme Court, requires the clerk to transfer its permanent case file records to LAPR in accordance with retention and disposition schedules adopted by the supreme court.

C. General Provisions.

1. Permanent records. As set forth below, at the end of the retention period with the court, the clerk must transfer to LAPR all records, regardless of format, that have a retention period designated as permanent, unless otherwise instructed by LAPR. The clerk shall work with LAPR’s established requirements for transfer.
2. Electronic case files and case data. At the end of the retention period set forth below, the clerk shall destroy electronic case files and case data not designated as having a retention period of *permanent*. Dockets in all cases are permanent. Electronic case files designated as having a retention period of permanent must be transferred to LAPR at a time when LAPR has the capacity to accept electronic records.
3. Paper case files and administrative records. At the end of the retention period set forth below, the clerk may destroy case files that are primarily in paper format and may destroy other records, regardless of format, not designated as having a retention period of

permanent. Paper case files and other records designated as having a retention period of permanent shall be transferred to LAPR.

4. Microfilm. Until national standards for the long-term preservation of electronic records are in place, records transferred to LAPR pursuant to the provisions of this schedule shall be in paper.
5. No duty to migrate to new technology. The clerk is not responsible for migrating to new technology any material filed in an action or proceeding that is recorded in a format, such as CD and DVD that must be read by a computer.
6. Conflicting authority. To the extent that the retention periods specified in this schedule vary from any statutory provision, the longer period of retention, whether in statute or the schedule applies.
7. Sealed files. A case file or portions of a case file sealed by order of the court must remain sealed in perpetuity, unless otherwise ordered by the court.
8. Destruction of non-permanent records. When a paper case file or other paper record is eligible for destruction, the clerk shall take proper precautions to protect the privacy of the individuals identified in the case file or other record and destroy the complete case file or other record by shredding, burning, or pulverizing the physical case file or other record. Electronic images of case file documents, data or other records shall be deleted from all electronic repositories in which they reside, including servers and hard drives. The court may keep a list, containing minimal information, such as case number, case type, party name, case decision and date of destruction, capturing any case files or other records destroyed, so that the court will know that a case file or other record has been destroyed and has not been merely misplaced or never existed.
9. Effective date. The provisions of this code section are applicable to cases filed on and after the effective date of the code section. Cases filed prior to the effective date are governed by the provisions of Administrative Order 2001-45.

D. Retention and Disposition Schedule. Unless otherwise stated within the schedule, ten years after a case is terminated or a mandate is issued, case files shall be transferred to LAPR. Sealed items shall be transferred to LAPR in numerical case number but designated as SEALED on the box index. The clerk shall retain and dispose of supreme court records according to the following schedule:

1. Denied petitions for review (or any other denied/declined) case type except denied criminal petitions for review, habeas corpus and denied civil petitions for review dealing with workers compensation and habeas corpus, filed on and after the effective date of this code shall be destroyed five years after final disposition of the case. The electronic docket shall be maintained. The case file excluding the docket for denied/declined cases shall be destroyed five years after final disposition of the case.

2. Direct Civil Appeals (e.g. Election, appeals transferred from the Court of Appeals, Certified Questions, Original Complaints):
 - a. Denied/dismissed case files, excluding the docket shall be destroyed five years from the date of the final disposition.
 - b. Granted/Jurisdiction accepted cases and Original Complaints shall be permanent.
 - c. Record on Appeal: Original documents filed in another court/agency shall be returned at the time of termination or mandate (paper only). Document copies shall be destroyed. Rule 24(c), Rules of Civil Appellate Procedure.
3. Extraordinary-Matters (E-Matters):
 - a. Unless granted, the case file, excluding the docket, shall be destroyed five years from the date of the final case disposition.
 - b. Granted case files are permanent.
4. Habeas Corpus: The case file shall be permanent.
5. Petition for Review – Civil, excluding Petitions for Review in Industrial Commission Cases (CVPR IC) and Petitions for Review in Habeas Corpus Cases (CVPR HC):
 - a. Denied cases and Improvidently Granted Petitions for Review, excluding the docket, shall be destroyed five years from the date of the final case disposition.
 - b. Granted Cases: The case file shall be permanent.
 - c. Denied CVPR IC Cases: The case file shall be permanent.
 - d. Denied CVPR HC Cases: The case file shall be permanent.
 - e. Record on Appeal: As provided in Rule 24(c) Rules of Civil Appellate Procedure, original paper documents filed in another court/agency shall be returned at the time of termination or mandate. Document copies shall be destroyed.
6. Petition for Review – Criminal:
 - a. All cases shall be permanent.
 - b. Record on Appeal: As provided in Rule 31.23(a)(5), Rules of Criminal Procedure, original paper documents filed in another court/agency shall be returned at the time of termination or mandate. Document copies shall be destroyed.
7. Special Action, including Miscellaneous (M) cases:

- a. Declined case files, excluding the docket shall be destroyed five years from the date of the final case disposition.
 - b. Accepted case files shall be permanent.
 - c. M cases involving appointment as a Capital Case Attorney are permanent.
8. Transfer Requests:
- a. Denied case files, excluding the docket shall be destroyed five years from the date of the final case disposition.
 - b. Granted case files shall be permanent.
9. Water Cases: All case files are permanent and possibly historic.
10. Judicial Conduct:
- a. Declined case files, excluding the dockets shall be destroyed five years from the date of final case disposition.
 - b. Accepted case files are permanent.
 - c. Record on Appeal: Original paper documents filed in the Commission on Judicial Conduct (CJC) are returned to the CJC at the time of termination or mandate. Document copies shall be destroyed. Rule 24(c), Rules of Civil Appellate Procedure. If the record is electronic, procedures for electronic purging shall apply.
11. Statewide Grand Jury: Applications for impanelment of a State Grand Jury and designation of an assignment judge from the attorney general and orders signed by the chief justice, shall be destroyed five years from the date of the order.
12. State Bar (Appeals – 59(a), Reinstatements – 65, Resignations – 32(c)(11), Admission by Motion – 36(h), Petition for Review – 36(h), Conditional Admissions – 36(g), Full-time Law School Faculty Members – 38(c), Clinical Law Professors – 38(d)(4), Legal Services Organization Volunteer – 38(e), Legal Services Employee – 38(f), Legal Organization – 38(f)(1), Attorneys Employed by Indigent Defense Offices – 38(g), Recommendation for Admission – 36(c), Subpoena – 36(a)):
- a. All case files are permanent.
 - b. Record on Appeal: Original paper documents filed in another court/agency are returned to that court/agency at the time of termination or mandate. Document copies shall be destroyed. Rule 24(c) Rules of Civil Appellate Procedure. If the record is electronic, procedures for electronic purging shall apply.

13. State Bar Rule 38 Certifications for Students: Certification documents (paper or electronic) shall be destroyed five years from the date of application.
14. Supreme Court Rule 28: All case files are permanent. Paper documents shall be transferred to LAPR 15 years from the date of the decision/determination. Paper Rule 28 Petition files must be boxed separately from other case files prior to transfer to LAPR.
15. Direct Criminal Appeals (Death Penalty) and Petitions for Review of Post-Conviction Relief related to these cases:
 - a. Case files are permanent.
 - b. Supreme Court Case Documents (Conviction and Sentence Affirmed): Death penalty case files shall be retained in the Clerk's Office until execution of sentence or earlier death. At that time, the case file shall be prepared for transfer to LAPR.
 - (1) Record on Appeal: The record on appeal, including court reporter transcripts (with the exception of the grand jury transcript) shall be retained in the Clerk's Office until execution of sentence or earlier death. At that time, certified copies of the instruments and minutes shall be destroyed. Original (paper) instruments and minutes shall be returned to the Superior Court consistent with Rule 31.23(a)(5), Rules of Criminal Procedure. Original (paper) Grand Jury transcripts and Juror Questionnaires shall be returned to the Superior Court at the time of the mandate. Copies shall be destroyed.
 - (2) Grand Jury transcripts returned to the trial court, must be identified as "Confidential: Grand Jury Transcripts" and placed in a sealed envelope. Copies of Grand jury transcripts and juror questionnaires must be destroyed.
 - (3) Original exhibits shall be returned to the trial court at the time of mandate for direct criminal appeals and at the time of case termination for related post-conviction relief proceedings.
 - c. Supreme Court Case Documents (Conviction and Sentence Reversed): All records are held in the Clerk's Office for a minimum of ten years unless the Court is earlier informed that the defendant was re-sentenced to life or released. Upon notice that the defendant was resentenced to life or released, the record may be prepared for transfer to LAPR.
 - (1) Record on Appeal: When conviction and sentence is reversed: The record on appeal, including court reporter transcripts (with the exception of the grand jury transcript) shall be retained in the Clerk's Office until notification that defendant was re-sentenced to life or released. At that time certified copies of the instruments and minutes shall be destroyed. Original (paper) instruments and minutes shall be returned to the Superior Court. Grand Jury transcripts and Juror Questionnaires shall be returned to the Superior Court at the time of the mandate or destroyed if copies.

(2) Original exhibits shall be returned to the trial court at the time of mandate for direct criminal appeals and at the time of case termination for related post-conviction relief proceedings.

- d. Supreme Court Case Documents (Remand to Superior Court): All records are held in the clerk's office until the superior court proceedings related to the remand are complete. Refer to D. 15. b or c depending on the superior court decision.

Record on Appeal: The record on appeal, including court reporter transcripts (with the exception of the grand jury transcript) shall be retained in the Clerk's Office unless transfer requested by the Superior Court. At that time, certified copies of the instruments and minutes shall be retained. Original instruments and minutes shall be returned to the Superior Court consistent with Rule 31.23(a)(5), Rules of Criminal Procedure. Original Grand Jury transcripts and Juror Questionnaires shall be returned to the Superior Court.

16. Grand Jury Transcripts: Regardless of case type, Grand Jury Transcripts shall not be imaged or electronically reproduced.
17. Original Attorney Rolls and Bar Admissions by Affidavit: Permanent, retain in Clerk's Office.
18. Lawyer Advertising and Solicitations: Destroy ten years after date of receipt.
19. Service of Subpoenas Rule 36(a)(3): Previously issued by the Clerk's office under Rule 36(e)(2), Rules of the Supreme Court. Destroy ten years after date of issuance.
20. State Bar Examination Files: Destroy ten years after the date of the exam.
21. Any other documents/matters related to the following: (1) Committee on Character and Fitness, (2) any aspect of the admission and discipline of attorneys, or (3) the State Bar of Arizona that are required by rule or law and are deposited with the Clerk of the Supreme Court: Destroy ten years after date of admission.
22. Copies of Certificates of Good Standing, related memoranda, correspondence, and documents. Rule 74, Rules of the Supreme Court: Destroy three years after date of issuance.
23. Original signed minutes, opinions, memorandum decisions, and orders. This includes administrative orders, Pro Tem orders, judicial assignment orders, and certifications pursuant to § 12-128.01: Retain in Clerk's Office permanently, subject to re-evaluation every 25 years.
24. Oral argument calendars, audio records, and agenda minutes: Permanent.

25. Financial records such as purchase request; copy cost receipts; financial reconciliations; and grant files (unless a different period is required by grantor): Destroy five years after fiscal year prepared.
26. Administrative/business files maintained by the Clerk of the Court including, but not limited to, contracts, procurement, claims processing records, vendor, automation, special projects and general management matters: Destroy five years after expiration of contract or agreement.
27. Final monthly, fiscal year, and calendar year statistical reports and revenue survey reports: Destroy ten years after date of report.
28. General and miscellaneous correspondence received, including miscellaneous prisoner correspondence that is not filed into a specific docketed case; file copies of outgoing general and miscellaneous correspondence not filed into a specific docketed case: Destroy five years after date of receipt/issuance.
29. Other documents filed or deposited in the custody of the Clerk's Office or otherwise received by the Clerk's Office that are not related to appellate litigation nor to other categories listed in this retention schedule and which are not required by rule or law to be preserved: Destroy one year after date of receipt.
30. Continuing education files (COJET): As required by ACJA § 1-302.

E. Historically Significant and Landmark Cases. The clerk shall comply with the following procedures for designating and transferring cases deemed historically significant or landmark:

1. Designation of a case as historically significant.
 - a. Purpose. Certain cases filed in Arizona courts may be identified as historically significant because of the unique legal issue or controversy involved, the prominence of one or more of the parties to the action, or because of other high-profile or newsworthy reasons. When there is a reason to believe that a case falls into this category, the following procedures shall be followed.
 - b. Procedure for designating a case as historically significant. A motion to request that a case be designated historically significant shall be filed either by a member of the public or on the court's own motion. The motion shall identify one or more reasons the case should be designated historically significant. The chief justice shall decide the motion. If the motion is denied, the chief justice shall identify the reason for the denial. The clerk shall file the order granting or denying the motion for historically significant designation with the case.
 - c. Processing and transferring. If the motion is granted, the clerk shall, within 90 days of final disposition, transfer the case file and a print-out of the docket from the case management system to LAPR for permanent retention. LAPR will accept diagrams,

maps, photographs, and any other paper-based materials. LAPR will not accept three dimensional objects, clothing, or security-sensitive exhibits such as weapons, drugs, money, and bio-hazardous materials. Identification of the case as historically significant shall be prominently noted on the print-out of the docket from the case management system transferred with the case to LAPR.

2. Designation of a case as landmark.

a. The following factors shall be considered in deciding whether a case is a landmark case:

- (1) The frequency with which the case has been cited;
- (2) Whether the case has been designated as historically significant;
- (3) Whether the case caused a change in policies or laws;
- (4) Whether the case affected a large portion of the community or was controversial;
- (5) Whether the case is generally viewed by the community as important;
- (6) Whether the case involved a famous or notorious individual or was the subject of a well-known book or film; and
- (7) Any other relevant factor.
- (8) Any case that has been the subject of a published opinion of the United States Supreme Court and has statewide or national impact shall be designated as a landmark case.

b. Procedure for designating a case as landmark:

- (1) The Arizona Historical records Advisory Board shall designate a case as landmark under section (E)(2)(a)(1)-(8), above in consultation with a committee convened by the Board for this purpose. The committee shall consist of Board members, retired appellate court judges or justices, law professors, historians, or other like persons who have objective, informed views about the long-term significance and effect of eligible published appellate opinions. The committee shall meet periodically to review all published appellate opinions no less than five years and no more than nine years after issued to determine whether any of these cases should be designated as landmark.
- (2) No more than ten years after an appellate opinions is issued, and with the Board's approval, the director of the Division of Arizona History and Archives shall provide written notice of landmark designation to the clerk of the superior court in the county of origin, the clerk of the appropriate division of the court of appeals, and the clerk of the supreme court who shall apply the process for transferring the case to LAPR.

c. Processing and transferring. When a case has been designated as landmark, the clerk shall file notice of this designation in the case. The clerk shall immediately transfer the case and a print-out of the docket from the case management system to LAPR for permanent retention. LAPR will accept diagrams, maps, photographs, and any other paper-based materials. LAPR will not accept three dimensional objects, clothing, or

security-sensitive exhibits such as weapons, drugs, money, and bio-hazardous materials. Identification of the case as landmark shall be prominently noted on the print-out of the docket from the case management system transferred with the case to LAPR.