I.C.A.R. 38. Minimum Standards for Preservation, Destruction, or Disposition of Trial Court Records. --Criminal Actions and Infractions.

Idaho Court Administrative Rules Rule 38. Minimum Standards for Preservation, Destruction, or Disposition of Trial Court Records. --Criminal Actions and Infractions.

(a)General Standards for Retention. This rule requires courts to preserve certain records indefinitely and authorizes the destruction of others. Whenever in this rule it is required that a record be preserved, it may be preserved either in the form of the original document, microfilm, or other archival media.Courts using any type of microfilming process must follow the Idaho Standards for Microfilming Court Records in order to ensure that the film is of archival quality.All equipment purchased and services contracted must meet these standards.

(b) Preservation of Court Record, Other Than Exhibits, While Defendant Incarcerated. Notwithstanding any provision of this rule, no court record, excluding exhibits, pertaining to a criminal conviction or a juvenile corrections act adjudication, may be destroyed while a defendant or juvenile is incarcerated or being held in any state or county institution in connection with the conviction to which the records pertain, nor while a defendant or juvenile is participating in a court-ordered probation or rehabilitation program or is subject to conditions of parole in connection with the conviction to which the records pertain.

(c) Preservation of Exhibits in Certain Cases.In any case in which a sentence of life imprisonment or death has been imposed, the exhibits shall not be destroyed while the defendant is incarcerated or being held in any state or county institution in connection with the conviction to which the records pertain, nor while a defendant is participating in a court-ordered probation or rehabilitation program or is subject to conditions of parole in connection with the conviction to which the records pertain.In all other criminal cases, the exhibits may be destroyed following ten days notice to the parties after expiration of the time for appeal or from the determination of an appeal, or from the determination of a proceeding following an appeal, whichever is later.

(d) Preservation and Destruction of Court Records.The following schedule sets out the minimum time period that must pass before records can be destroyed and the specific records that must be preserved when destroying a file.It is within each court’s discretion to exceed the minimum time period before destruction or to preserve additional records:

Case Type **Type of Record**	**Minimum Time to** **Keep Entire Record**	**When Destroying, Minimum Record to** **Preserve**
Criminal action, including DUI/DWP	1 year from expiration of time for appeal*	• ROA • All court minutes • Complaint, Amended Complaint, Indictment, Amended Indictment • Information, Amended Information • Notification of Defendant's Rights • Notification of

		Subsequent Penalties • All Judgments • Notification of intent to destroy exhibits • Payment history if money is due
Traffic action, other than DUI/DWP	1 year from expiration for appeal*	If money is due, keep all judgments & payment history otherwise destroy entire file
Infractions	1 year from expiration of time for appeal*	None
Youth Rehabilitation Act, Juvenile Corrections Act	1 year from expiration of time for appeal*	• ROA • All court Minutes • Petition/Amended Petition • Ackowledgement of Rights • Any Reports Submitted • Findings of Fact & Conclusions of Law • Final Order, Judgement, Decree • Notification of intent to destroy exhibits • Payment history if money is due
Recordings & Tapes, Stenographic Records, and all related logs and indexes	Recordings and tapes 5 years from date of hearing; provided, that recordings of any case may be destroyed when the case is eligible for destruction.Stenographic records, related logs and indexes upon settlement of the report's transcript on appeal	None
Exhibits -admitted or rejected-	Following 10 days notice to the parties after expiration of time for appeal**	None

***** or from the determination of an appeal, or from the determination of a proceeding following an appeal, whichever is later.Keep the entire record if the defendant/juvenile is incarcerated, on probation, on parole, or in a rehabilitation program in connection with the conviction in which the records pertain.

****** or from the determination of an appeal, or from the determination of a proceeding following an appeal, whichever is later.However, if the sentence imposed was life imprisonment or death, then the exhibits must be kept while the defendant is incarcerated, on probation, on parole, or in a rehabilitation program in connection with the conviction to which the records pertain.

(e)Notice to Historical Society.The court shall give written notice to the Idaho State Historical Society of the intent to destroy or dispose of any record.No record shall be disposed of or destroyed for 90 days following notice unless the Idaho State Historical Society gives written notice to the court that it has no interest in obtaining or preserving the record.

(f) Sealed Records. Documents in sealed cases may be preserved either in the form of the original

document or a microfilmed or other permanent copy thereof; provided, however, that when preserved by microfilm, the microfilm shall be designated as “sealed” for shall be maintained in a separate sealed area. Sealed documents are not sent to the Historical Society, thus no notice to the Historical Society is necessary before sealed documents are destroyed.

(Adopted April 27, 1995, effective July 1, 1995; amended March 20, 2000, effective July 1, 2000; amended May 22, 2000, effective July 1, 2000.)

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