

## **CLERK OF THE DISTRICT COURT MANUAL**

### **24.0 DESTRUCTION OF COURT RECORDS**

Revised October 2006

#### **24.1 APPLICABLE RULES**

The Idaho Court Administrative Rules govern the retention and destruction of court records. ICAR 37 addresses civil records while ICAR 38 deals with criminal records (including infractions and juvenile records). In addition ICAR 39 supplements Rules 37 and 38 regarding the destruction of recordings; while ICAR 40 governs appellate court records. Please note that both Rule 37 and 38 provide that court records can be kept longer than is required.

#### **24.2 IDENTIFYING RECORDS FOR DESTRUCTION**

ICAR 37 and 38 specify which trial court records may be destroyed and which must be kept. Because it may not always be easy to determine how a particular document in a case file ought to be categorized under these rules, only experienced and knowledgeable court staff should be involved in identifying which documents must be kept and which may be destroyed. In case of doubt, please contact your supervisor, the clerk of court, the trial court administrator or the custodian judge before destroying or disposing of any court record.

#### **24.3 NOTICE TO HISTORICAL SOCIETY**

Before a court destroys or otherwise disposes of any court record, the State Historical Society must be notified of what records are going to be destroyed or disposed of, 90 days prior to their proposed destruction, or disposition. If the Historical Society wants any of the records, those items should not be destroyed, and arrangements should be made with the Historical Society for the transfer of those records. If the Historical Society does not respond within 90 days or notifies the court that it does not want the records, they can then be destroyed. If a court is microfilming or otherwise imaging court records, the Historical Society must still be notified before the original court document is destroyed.

##### Clerical Duties:

1. Prepare and send written notice of intent to destroy or dispose of documents or property to: State Historical Society: 2205 Old Penitentiary Rd., Boise, ID 83712-8250. The State Historical Society has 90 days to give notice that they have no interest in the records.
2. If you have any questions regarding the destruction of court records, please contact your supervisor, the Clerk of the District Court, Trial Court Administrator, or Administrative District Judge.

**Exhibits:**

In civil cases, exhibits, whether admitted or rejected, may be destroyed following 10 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.

In criminal cases, exhibits, whether admitted or rejected, may be destroyed following 10 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. However, if the sentence imposed was life imprisonment or death, then the exhibits must be kept while the defendant is incarcerated, on probation or parole, or in a rehabilitation program in connection with the conviction to which the records pertain.

**Recordings, Stenographic Records & Tapes:**

In both civil and criminal cases, recordings, stenographic records, and tapes may be destroyed 5 years from the date of hearing, and further, any recordings of any case can be destroyed when that case is eligible for destruction. Stenographic records can also be destroyed upon settlement of the reporter's transcript on appeal.