

Exhibit Retention Policy in Criminal Cases

This policy governs the retention of all exhibits admitted into evidence in criminal cases. Nothing in this policy overrides the trial judge's inherent authority to issue specific orders regarding the disposition of evidence.

I. Post-Trial Storage of Exhibits

A. Controlled Substances or Narcotic Drugs

After trial, all controlled substances or narcotic drugs admitted into evidence in a criminal case shall be returned to the Commonwealth. G. L. c. 94C, §47A, fifth paragraph. The court shall also issue a written order directing that such evidence be held and not destroyed until expiration of the period for filing an appeal pursuant to Rule 4 of the Rules of Appellate Procedure or, if an appeal is filed, until the entry of final judgment after the completion of all appellate proceedings. The Commonwealth may thereafter petition the court for destruction of controlled substances or narcotic drugs in accordance with the procedures set forth in G. L. c. 94C, §47A, fifth paragraph.

B. Currency

Consistent with the preference for forfeiting funds seized by law enforcement, as reflected in G. L. c. 94C, §47(a)(5) and G. L. c. 276, § 3(c), any and all cash admitted into evidence in a criminal case shall be returned to the Commonwealth after conclusion of the trial.

C. Clerk's Discretion to Return Certain Exhibits to Parties

1. A Clerk of Courts or Clerk-Magistrate or his or her designee, in the exercise of his or her discretion, may return an exhibit to the party who offered it into evidence if post-trial retention of that exhibit within the courthouse is impracticable due to the size of the exhibit, the bulk of the exhibit, or any physical characteristic of the exhibit.
2. The Clerk of Courts or Clerk-Magistrate shall require any party receiving trial exhibits to sign a written receipt.
3. The party shall be responsible for retaining the exhibit for the period of time that the defendant remains incarcerated or under parole or probation supervision in connection with that crime.

D. Exhibits Retained and Stored by Clerk's Office

1. If the Clerk of Courts or Clerk-Magistrate does not return exhibits to the parties after trial, such exhibits shall be retained and stored by the Clerk's Office in an

evidence room for the period of time that the defendant remains incarcerated or under parole or probation, except as set forth in Sections I A., B. and C. *supra*.

2. All exhibits shall be packaged in suitable paper envelopes and cardboard boxes, properly identified by case name and docket number, and separated from exhibits belonging to other cases.

3. The Clerk's Office shall retain all such exhibits in a place and manner designed to prevent their destruction or deterioration, subject to any policies adopted by the Trial Court.

4. Firearms, ammunition and any controlled substances not yet returned to the Commonwealth, shall be stored in a designated secure storage area. All firearms shall be made safe and stored unloaded. *See* Part II below.

II. Storage of Firearms, Ammunition and Controlled Substances in Secure Storage Areas

A. Secured Storage Area

1. Each Clerk's Office must establish and designate a secure storage area specifically for the storage of firearms, ammunition, and controlled substances admitted into evidence. Depending upon the needs of the court and availability of suitable space, a vault, safe, or reinforced strong room may be designated for this purpose.

2. The designated secure storage area must have a lock system independent of other locks used in the courthouse. It must be locked at all times except when accessed to store or retrieve exhibits or conduct inspections.

3. Access to the secure storage area shall be limited to the Clerk of Courts or Clerk-Magistrate and a limited number of his or her designees.

4. Except during court proceedings or upon order of the court, all firearms, ammunition, and controlled substances admitted into evidence during a trial or a hearing shall be stored in the designated secure storage area.

5. The Clerk's Office shall maintain a log on a form supplied by the Trial Court that documents each instance when an authorized employee accesses the designated secure storage area. Said log shall include the date and a notation of any evidence added or removed.

6. The Clerk of Courts or Clerk-Magistrate, or his or her designee, shall conduct an annual inventory of the evidence stored in the designated secure storage area.