

PUBLIC DEFENDER FIRST CIRCUIT POLICY FOR RETENTION, DESTRUCTION AND RELEASE OF FILES TO CLIENT

Effective May 28, 2014

Public Defender case files are the property of this office and as such must be maintained in accordance with state law and office policy. While the files are open, they should not be released or shown to anyone outside this office without the approval of the Public Defender or his designated representative.

NOTE: CLIENT CASE FILES ARE CONFIDENTIAL AND NOT SUBJECT TO PUBLIC RECORDS REQUESTS PER CHAPTER 119, FLORIDA STATUTES.

PENDING CASES

For pending cases, at the discretion of the assigned attorney, copies of the materials in the file such as pleadings (notices, routine filings), investigative reports, subpoena copies, reports (of confidential experts), etc. may be provided to the client. The client is not entitled to these documents without paying for copies. If the number of copies exceeds ten (10), a fee of fifteen cents (.15) per page shall be charged, unless in the opinion of the attorney, providing the copies will be beneficial to the preparation of the case and the fee would be a hardship on the client. See next section regarding client property.

CLOSED CASES

Closed case files will generally contain 3 types of items: Client property, items prepared at taxpayer expense, and work product.

Client Property

Documents, photographs, items, etc., belonging to the client should **NOT** be kept in office files. When a client provides original material that is relevant to the case, all effort should be made to copy said material and return the original to the client immediately. No personal property should be retained in the client file during representation or post-disposition. These items may include, but are not limited to: records provided by the client, pictures taken by the client, printouts of materials from social networking, medical information provided by the client, physical items such as cell phones, etc. A client is always entitled to the return of personal property. For this reason, should a file contain property of a client, it must be clearly marked as such prior to closing the file.

Items Prepared at Taxpayer Expense

These items include, but are not limited to: hearing and deposition transcripts, motions, discovery provided by the state, pleadings (notices, routine filings), subpoena copies, expert reports. This list may not be all inclusive. The client is entitled to the original documents (if those documents are in STAC) or copies (if the documents are not in

STAC) at no cost to the client after the time frame for any appeal or post-conviction matter is exhausted. If the client requests copies prior to that time frame, the client will be charged for copies at rate of .15 per page. Copies of CD's and DVD's shall be billed at \$10.00 per disk.

If these items are provided to the client, there must be a clear notation on the file and in STAC that the originals, or copies, were provided to the client and the date the request was fulfilled.

Work Product

The client is **NOT** entitled to work product. Work product includes thoughts or impressions of the attorney during the preparation of the case, notes about a witness, thoughts about a defense, analysis of legal issues, items involved in case preparation, correspondence to and from the client, etc. Client is also not entitled to non-client correspondence including emails. These items should never be provided to the client without the express approval of the Public Defender or an attorney supervisor.

All payments shall be by cashier's check or money order payable to Public Defender, First Judicial Circuit. Personal checks or cash may not be accepted.

Any questions regarding this procedure for providing copies of files to clients should be directed to Scott Ritchie.

RETENTION AND DESTRUCTION SCHEDULE PD01-10

Client files for the Public Defender's Office, First Judicial Circuit, will be retained in hard copy form in accordance with the following time frame:

- Felony (Adult): Five (5) years after disposition of case
- Misdemeanor (Adult): One (1) year after disposition of case
- Juvenile: Five (5) years after disposition of case
- Appeal: Five (5) years after disposition of case
- Baker Act/Mental Health: One (1) year after disposition of case
- Capital Homicide (death penalty imposed): Expiration of sentence
- Capital Homicide (non-death): Five (5) years after disposition of case
- Sexually Violent Predator Civil Commitment: Five (5) years after disposition of case
- Executive Clemency: Expiration of sentence

Requests for destruction are to be forwarded to Administration and must include the case type, beginning and ending closed dates and method of storage (# of legal file boxes, # of shelving inches, etc.). A purchase order will be prepared and sent to the vendor with a copy provided to the requestor. In addition, a Records Disposition Certificate will be prepared and the original provided to the requestor. The Certificate

must be signed by both the vendor and employee after completion of the file destruction and then returned to Administration.

Media

Destruction of media (videos, CD's, DVD's, cassette tapes, etc.) will be done based on the Retention and Destruction Schedule PD01-10. All media relating to a case should remain with the file until the file is sent to File Management for closing. File Management personnel will remove the media from the closed file, write the closed file number on the media, and place it in the appropriate container where it is to be filed in closed number order and separated by case type. The media will be pulled and destroyed when the corresponding file is destroyed pursuant to the destruction schedule. Any media found that belongs to a case file that has already been destroyed can be added to the next destruction schedule for disposal.