

PART 10.00 CRIMINAL RULES

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10.01 APPLICABILITY OF GENERAL RULES

(a) In all criminal, quasi-criminal, traffic and conservation offenses, the following rules shall be applicable.

(b) Unless otherwise indicated, references in these rules to the prosecutor shall also mean State's Attorney, Assistant State's Attorneys, Special State's Attorney, Local Prosecutor, or Attorney General.

(c) Reference in these rules to defendant's attorney shall mean defendant, when defendant elects to proceed pro se, or his attorney.

10.02 FORMS OF CRIMINAL PROCEDURE

Forms for all proceedings covered by these rules will be approved by the Circuit Judges and filed with the court administrator. Copies may be made available from the Clerk's office and law library. Where a form has been adopted, that form shall be used in court.

10.03 COURT CALENDAR AND ASSIGNMENT OF CASES

Matters involving the scheduling and assignment of judges, dates, times and locations shall be established by Administrative Orders of the 22nd Judicial Circuit Court.

All cases shall be assigned by the Chief Judge as direct by administrative order or otherwise.

10.04 CONSOLIDATION OF OFFENSES AND DEFENDANTS

(a) Assignment of cases to a particular court will be pursuant to administrative order. All matters will be set in the court division that would hear the most serious offense charged, unless otherwise ordered.

(b) All charges out of a single incident, including traffic and ordinance violations, shall be written into a single court on a single date.

(c) Defendants charged with offenses arising out of the same transaction or occurrence or series of transactions or occurrences will be assigned into the same court unless otherwise ordered.

(d) Where two or more offenses are charged in a single indictment, information or complaint, those offenses shall be joined and tried together in a single joint prosecution unless severance is granted.

(e) Where two or more defendants are charged in the same indictment, information or complaint in one or more counts together or separately, such defendants shall be tried together in a single prosecution unless severance is granted.

10.05 FILING APPEARANCE OF ATTORNEYS / PRE-TRIAL AND TRIAL

The attorney representing a defendant in any criminal proceeding shall file an appearance. This appearance must be filed with the Circuit Court Clerk prior to or simultaneously with the filing of any motion, brief or other document with the Court, or initial court appearance, whichever comes first. It shall contain the proper case caption and number, the attorney's name, address, office phone number and Illinois attorney registration number. The appearance shall be in typed form or legibly hand printed. A copy of the appearance shall also be served upon the prosecuting attorney.

10.06 WITHDRAWAL OF COUNSEL

The attorney representing a defendant in any criminal proceeding shall not be granted leave of court to withdraw as counsel unless a written motion to withdraw is filed and notice of motion is sent to the prosecuting attorney and the defendant by certified mail, return receipt requested, in compliance with the procedural rules and good cause is demonstrated to the Court. No motion to withdraw shall be considered unless filed with notice given a minimum of thirty (30) days prior to the date set for trial to commence.

10.07 APPOINTMENT OF THE PUBLIC DEFENDER

(a) Upon the request of the defendant for appointment of the Public Defender to the sitting judge, the Court shall require the defendant to complete and file a Certificate of Assets/Debts form on a form approved by the Circuit Judges in any case in which a sentence of imprisonment in the county jail facility or Department of Corrections is a possible sentence upon conviction of the offense charged, or where extradition of the defendant to another state of federal jurisdiction is sought.

(b) The Court may, for good cause, temporarily appoint the Public Defender without prior receipt of the Certificate of Assets/Debts form to serve as counsel in the proceeding then before the Court. However, the appointment shall be reviewed and not continue beyond that proceeding unless or until the provisions of Paragraph (a), above, have been complied with.

(c) The Court shall advise the defendant who is appointed the Public Defender that upon motion of the prosecuting attorney or the Court that the defendant may be required to make reimbursement to the County of McHenry for legal services rendered upon final disposition of the criminal matter according to Supreme Court Rules.

10.08 FIRST APPEARANCE-RIGHTS COURT

When an accused in a criminal proceeding is taken into the custody of the McHenry County Sheriff, he shall be brought forthwith as soon as practicable before a judge and advised:

- (a) of the charges alleged against him, the possible penalty of fine and/or imprisonment upon conviction and the amount of bail and fees needed to secure his release on bail;
- (b) of his right of representation by an attorney of his choice or, if indigent, by a Public Defender;
- (c) of his next court appearance date and time;
- (d) of his rights to receive food, shelter and reasonable medical care if needed while in custody of the McHenry County Sheriff.

10.09 BAIL HEARINGS

Bail Hearings, brought pursuant to written motion under Article 110, 725 ILCS 5/110-1 et. seq. may be heard by the Court to whom the case is assigned upon not less than 48 hours notice to the opposing party unless otherwise ordered.

10.10 GRAND JURY

Grand Jurors shall be summoned to duty by the Jury Commissioner's Office. Grand Jurors shall be assembled and called to serve on the first Thursday in January, March, May, July, September and November by the Chief Judge. Their term of service shall be sixty (60) days, unless otherwise ordered. If any day upon which a Grand Jury is to be called is a legal holiday, such Grand Jurors shall be called to serve the next court date. After being impaneled, instructed and sworn by the Court, the grand Jury shall sit at such times as the Court may order or that the State's Attorney or the Grand Jury foreperson deems appropriate, and may be recessed from time to time to a day certain or subject to recall.

10.11 DISMISSAL OF CHARGES UPON THE FILING OF A NEW CHARGING DOCUMENT

Upon the filing of an indictment, superseding indictment or information, any previous indictment, complaint or information reflected by charges on the new indictment, new superseding indictment, or new information are dismissed unless otherwise ordered by the judge to which the case is assigned.

Such dismissals shall be noted in the clerk's minute entry as "Dismissed superseded by indictment or information" by using state code 212.

10.12 FELONY ARRAIGNMENTS

At the arraignment of defendants charged with a felony and upon a plea of not guilty, the Court shall enter an order of reciprocal discovery on the State and the defendant pursuant to Supreme Court Rules regarding discovery in criminal cases, with a time designated for compliance, and shall place the cause on the judge's trial calendar.

10.13 SUBSTITUTION OF JUDGES

In all cases wherein a substitution of judge has been requested and granted pursuant to 725 ILCS 5/114-5, unless otherwise provided by administrative order, said cases shall be transferred to the Chief Judge or Court Administrator for reassignment.

10.14 ASSIGNMENT OF COURT INTERPRETERS

(a) Pursuant to 725 ILCS 140/1 and 140/3, the court shall provide an interpreter to any person accused of committing a felony or misdemeanor where incarceration may result who is not capable of understanding or expressing themselves in English. The appointment of an interpreter in a felon or misdemeanor where incarceration may result is at county expense regardless of whether the defendant is indigent.

(b) The Court's Interpreters shall be available to assist non English speaking defendants for all routine matters appearing on the Court's docket. For purposes of this rule, routine matters are defined as non-evidentiary proceedings, such as arraignments, pleas, continuances, status dates, bond hearings, etc. Any party requiring the assistance of the Court's Interpreter for an evidentiary hearing and/or trial, shall be required to (i) notify the Court Administrator's Office within two (2) business days after an order is entered scheduling the case for hearing and/or trial, and (ii) advise the Court Administrator's Office in writing of the need for interpreter assistance; including the date said matter is set for hearing or trial, the caption name and case file number, the anticipated duration of said hearing or trial, and the sitting judge and courtroom in which it is scheduled.

(c) Cancellation of Court Interpreters should be made by the party originally requesting the interpreter's assistance as soon as practicable by notification to the Court Administrators Office in order to avoid undue expense and inconvenience.

(d) Official Court Interpreters, whether staff or contractual, are appointed to serve the Court, pursuant to 725 ILCS 140/1. In their capacity as Official Court Interpreters, they are bound to a professional code of conduct as outlined in Interpreter's Standard of Conduct. Assigned Court Interpreters of the Twenty-Second Judicial Circuit shall accept and agree to be bound by this Code of Professional Conduct for Court Appointed Interpreters and understand that appropriate sanctions may be imposed by the Court for willful violations.

(e) The Twenty-Second Judicial Circuit hereby adopts the Code of Professional Conduct for Court Appointed Interpreters. Court Interpreters must:

1. Act strictly in the interest of the Court they serve.
2. Reflect proper court decorum and act with dignity and respect to the officials and staff of the Court.
3. Avoid professional and personal conduct which could discredit the Court.
4. Not divulge any information of a confidential nature about Court cases obtained while performing interpreting duties, unless authorized by Court Order.
5. Refrain from solicitation of business in the courtroom and environs. Any violation of this will result in loss of privilege of providing services.
6. Refrain from giving advice of any kind to any party or individual and from expression personal opinions in a matter before the Court.

7. Maintain impartiality by avoiding undue contact with witnesses, attorneys, and defendants and their families and any contact with jurors. This should not limit, however, those appropriate contacts necessary to prepare adequately for their appointed tasks.
8. Not accept any reimbursement, gifts, gratuities, or valuable consideration in excess of their authorized compensations in performance of their official interpreting duties.
9. Not use, for private gain or advantage, their county time or the Court's facilities, equipment or supplies, nor shall they use unwarranted privileges or exemptions for themselves or others.
10. Disclose to all parties concerned, and to the trial judge, any conflict of interest. Any condition which infringes on the objectivity of the interpreter or affects his or her professional independence constitutes a conflict of interest. A conflict may exist wherever any of the following occur:
 - (i). the interpreter is personally acquainted with any party;
 - (ii) the interpreter has, in any way, an interest in the outcome of the case;
 - (iii) the interpreter is perceived as not being independent of the adversary parties (or related agencies in criminal cases).

10.15 MOTION PRACTICE

(a) All pre-trial motions including, but not limited to, motions brought pursuant to Illinois Compiled Statutes, Chapter 725, Article 144 or Article 115-10 of the Code of Criminal Procedure shall be filed within the time fixed by the Court. In the absence of an order setting dates, all motions shall be filed and brought to the attention of the Court not less than twenty-eight (28) days before the date the case is set to commence.

(b) Time of Notice. Pursuant to rule, court order or administrative order:

1. If notice of filing is given by personal service, the notice and motion shall be delivered before 4:00 p.m. on the second day preceding the hearing of the motion.
2. If notice of filing is given by mail, the notice and motion shall be deposited in the United State's Post Office or Post Office deposit box on the fifth day preceding the hearing of the motion, excluding Saturdays, Sundays and Holidays.
3. If notice of filing is given by facsimile transmission, the notice and motion must be transmitted not less than 48 hours preceding the hearing of the motion, excluding Saturdays, Sundays and Holidays.

(c) A defendant shall be present in open court upon the hearing of any motion in the case unless his presence is waived by the Court for good cause shown.

(d) Briefing of motions shall be within the discretion of the judge assigned to the case. In no event shall a brief on a motion be submitted in excess of 10 pages without the Court's permission. All briefs and memoranda of law shall identify the submitting party in the heading following the caption of the case. All briefs and legal memoranda presented to the Court shall not be filed in the Court file nor made a part of the record for appeal. Such briefs and memoranda may be delivered to the Judge

through the Clerk of the Court and the Court Clerk shall stamp copies for the attorneys to show received this date with a stamp using the following words:

RECEIVED
McHENRY COUNTY, ILLINOIS
(DATE)
(NAME)
Clerk of the Circuit Court

The Clerk shall not file briefs and memoranda. Briefs and memoranda of law for the Court shall not include any other motions or legal pleadings.

(e) Courtesy copies of briefs or contested motions along with supporting legal authority may be submitted to the Court through delivery to the Court Administrator's Office concurrent with the filing with similar delivery to opposing counsel. All parties shall submit to the Court courtesy copies of briefs and other materials necessary for decision within five (5) days prior to the hearing. Any transmittal letters should be limited to the fact of the transmittal only and opposing counsel shall be notified of the transmittal letter contemporaneously.

10.16 DISCOVERY IN CRIMINAL CASES

(a) Discovery in felony cases shall be governed by Supreme Court Rules and the Code of Criminal Procedure.

(b) Discovery in misdemeanor cases are governed by the Supreme Court's ruling in *People v. Schmidt*, 56 Ill.2d 572 (1974). However, upon agreement of the prosecuting attorney and the attorney for the defendant, police reports may be tendered by the prosecutor in lieu of Schmidt discovery.

10.17 PRE-TRIAL SUBPOENA FOR PRODUCTION OF SPECIFIED DOCUMENTS, OBJECTS OR TANGIBLE THINGS

(a) The Clerk of the Court shall issue subpoenas limited to the production of specified documents, objects or tangible things when requested by the prosecutor or the defendant. The subpoena shall require the person or entity to whom it is directed to produce the designated documents, objects or tangible things. Notice of the issuance of the subpoena to produce specified documents, objects or tangible things shall be given within forty-eight (48) hours of issuance to all parties having appeared in the action. **Subpoenas shall be returnable before the judge assigned to the case at a time that the court is normally in session.**

(b) Subpoenas issued pursuant to this Rule shall be served in accordance with the Supreme Court Rules.

(c) In cases where the documents, objects, or tangible things sought are protected under the privacy rules of the Federal Health Insurance Portability and Accountability Act (HIPPA), the party seeking

the items shall give notice of the issuance of the subpoena, in accordance with subsection (e), to the person who holds the privacy privilege to the documents, objects, or tangible things involved.

(d) The person to whom a subpoena is directed who has actual or constructive possession or control of the specified documents, objects or tangible things sought by the subpoena shall respond to any lawful subpoena of which he has actual knowledge. Service of a subpoena by mail may be proved prima facie by return receipt showing delivery to the deponent or his authorized agent by certified or registered mail at least fourteen (14) days before the date on which compliance is required, together with an affidavit showing that the mailing was prepaid and was addressed to the deponent, restricted delivery, return receipt requested, showing to whom, date and address of delivery, and that a check or money order for the fee and mileage enclosed.

(e) The person to whom the subpoena is directed who has constructive or actual possession or control of the specified documents, objects or tangible things, may comply with said subpoena, without personal appearance, by providing complete and legible copies to the Court together with a certificate that compliance is complete and accurate on or before the return date listed on the subpoena.

(f) A subpoena issued under this provision seeking specified documents, objects or tangible things shall bear the following legend on the face of said subpoena, or conspicuously attached thereto, and a copy of said subpoena and notice of service shall be mailed first class within forty-eight (48) hours of issuance to all parties having appeared in the action:

YOU MAY COMPLY WITH THIS SUBPOENA BY APPEARING IN PERSON IN COURT ON THE RETURN DATE WITH THE SUBPOENAED MATERIALS. YOU ALSO MAY COMPLY BY MAILING LEGIBLE AND COMPLETE COPIES OF ALL SPECIFIED DOCUMENTS, OBJECTS OR TANGIBLE THINGS REQUESTED IN THIS SUBPOENA AT LEAST FIVE (5) DAYS BEFORE THE DUE DATE TO PRESIDING JUDGE (MCHENRY COUNTY GOVERNMENT CENTER, 2200 NORTH SEMINARY AVENUE, WOODSTOCK, ILLINOIS 60098).

COMPLIANCE BY MAIL REQUIRES THAT THE ATTACHED CERTIFICATE BE SIGNED AND RETURNED.

DO NOT SEND THESE MATERIALS TO ANYONE OTHER THAN THE JUDGE PRESIDING STATED ABOVE.

(g) A certification page containing the following language shall be sent with all subpoenas issued pursuant to this section:

I hereby certify, under penalty of perjury and contempt of Court, that I have examined the subpoena issued in this cause and that the documents, objects and tangible things attached hereto represent full and complete compliance with said subpoena.

Date: _____

Signature: _____

Print Name: _____

10.18 EXPERT WITNESSES

(a) Disclosure of expert witnesses shall be in accordance with the Supreme Court Rules governing discovery in criminal cases.

(b) The name, business address, business phone number, area of expertise, and subject matter of the proposed testimony of all expert witnesses shall be disclosed to the opposing party within the time limit set for discovery unless otherwise ordered by the Court.

(c) All reports, notes, memoranda, correspondence, or other written materials pertaining to the expert's opinion, employment or qualifications are discoverable and shall be furnished within the time set for discovery unless otherwise ordered by the Court.

(d) Failure to comply with these rules may result in sanctions including, but not limited to, barring of testimony of expert witnesses.

10.19 TRIAL SUBPOENA FOR PRODUCTION OF SPECIFIED DOCUMENTS, OBJECTS OR TANGIBLE THINGS

Subpoenas requiring the presence of a witness or the production of specified documents, objects or tangible things at trial shall be governed by the Code of Criminal Procedure, 725 ILCS 5/100-1 *et seq.*

10.20 CONTINUANCES

In addition to the requirements contained in 725 ILCS 5/114-4:

(a) Attorney Engaged. A party may be entitled to a continuance on the ground that his attorney is actually engaged in another trial or hearing. Any motion for continuance shall be in writing and supported by affidavit setting forth the name and case number of the other case, place of trial or hearing, the date the other matter was set for trial or hearing, name of judge and anticipated length of trial or hearing, together with the number of and reasons for any prior continuances in the case sought to be continued.

(b) Addition or Substitution of Attorneys. A continuance shall not be granted solely upon the ground of substitution or addition of attorneys except for good cause shown upon motion and affidavit.

10.21 DEMAND FOR SPEEDY TRIAL- Defendant on bail or recognizance

For every criminal defendant on bail or recognizance who demands a speedy trial:

(a) Said demand shall be made in writing as a separate document, containing proper case caption and case number, signed and dated by the defendant and/or defendant's attorney, and in accordance with Chapter 725, Section 5, Article 103-5 of the Illinois Compiled Statutes, and

(b) The original demand for speedy trial signed by the defendant shall be filed with the Clerk of the Circuit Court in open court with the defendant present and a copy of the demand shall at the same time be served on the prosecutor.

10.22 JURY TRIALS

(a) Whenever a felony charge is set for jury trial, the Court will, at the request of either the prosecutor or attorney for the defendant, set a pre-trial conference status date in court when the parties must appear. All pre-trial motions, including motions in limine, must be filed with the Clerk of the Circuit Court prior to, but no later than, the pre-trial conference appearance date. The Court will set briefing schedules and a date for hearing, prior to commencement of the jury trial, on any pre-trial motions not yet heard. Motions filed after the pre-trial conference appearance may be heard, in the court's discretion, upon good cause shown.

(b) Prior to jury selection, the prosecutor and attorney of the defendant shall prepare and present to the Court a statement of facts for the case being tried which shall include the names of potential witnesses each party may call during trial, including the municipal entity in which they live, or in the case of police officials, the law enforcement entity for whom they are employed.

(c) The prosecutor and attorney for the defendant shall each prepare jury instructions in writing and present them to the trial judge and opposing counsel when the case is called for jury trial or at such other times as the trial judge may order. The attorney submitting the written jury instructions will provide one copy each for the trial judge and opposing counsel containing the proponent's instruction number and the Illinois Pattern Jury Instruction number or the legal authority upon which the attorney relies. In addition, the submitting attorney will provide the trial judge with an identical set of proposed instructions that does not contain the proponent's instruction number or the Illinois Pattern Jury Instruction number or the legal authority.

10.23 WAIVER OF JURY TRIAL

(a) Every person accused of an offense, other than an offense punishable by a fine only, shall have the right to a trial by jury unless understandingly waived by defendant in open court. Where the defendant elects to waive the right to trial by jury, such waiver shall be made in open court with the defendant present and shall be accompanied by a written waiver signed by the defendant on a form approved by the Court.

(b) In cases where a jury demand is made which require the payment of a jury fee, the fee must be paid prior to or contemporaneously with the jury demand. Failure to pay the jury fee as required (unless waived for good cause shown on written petition) shall cause the jury demand to be invalid.

10.24 CONTROL OF EVIDENCE

(a) Felony cases: Exhibits received in evidence at trial or at hearing on a motion in any felony case shall be retained by the court reporter unless otherwise ordered by the Court. Upon judgment entered by the Court, the court reporter shall transfer all exhibits received to the Clerk of the Circuit Court unless otherwise ordered by the Court.

(b) Non-felony cases: Exhibits received in evidence at trial or at hearing on a motion in any non-felony case tried through electronic recording system shall be retained by the trial judge.

10.25 DUI-ALCOHOL AND DRUG RELATED EVALUATIONS

Unless otherwise allowed by the Court, after a finding of guilty and prior to any final sentence, or order of supervision, for an offense based upon an arrest for a violation of 11-501 of the Illinois

Vehicle Code or similar local ordinance, the defendant shall present a written professional evaluation for the Court to determine if an alcohol, drug or intoxicating compound abuse problem exists and the extent of the problem and undergo the imposition of treatment as appropriate. Programs conducting these evaluations shall be licensed by the Illinois Department of Human Services or other similar agency of another State.

10.26 CERTIFICATES OF HISTORY OF PRIOR OFFENSES involving DUI Cases, FIRST OFFENDER DRUG Cases, or Any Other Cases

(a) Prior to the pronouncement of sentence in any misdemeanor offense charged under Section 5/11-501 of the Illinois Vehicle Code, or similar local ordinance, where court supervision is requested, the defendant shall fully execute and file with the sentencing judge, a written certificate of history of prior offenses, on a form provided by the Clerk of the Circuit Court.

(b) Prior to the pronouncement of sentence in any case where first offender probation is requested under the Cannabis Control Act, 720 ILCS 550/10, or Illinois Controlled Substance Act, 720 ILCS 570/410, the defendant shall execute and file with the sentencing judge, a certificate stating that he has not been previously been convicted of, or placed on probation or court supervision for, any offense under the Cannabis Control Act or Illinois Controlled Substance Act, or any law of the United States or any State relating to cannabis or controlled substances.

(c) Upon order of the sentencing judge, said certificates of history of prior offenses shall also be filed in any other case, prior to the pronouncement of sentence.

10.27 SEALING OR IMPOUNDMENT OF DOCUMENTS

There is a strong statutory presumption of public access to the court's files and records which may be overcome only on a compelling showing that the public's right of access is outweighed by the interests of the public and the parties in protecting files, records, or documents from public review.

Nothing in this rule shall be construed to expand or restrict statutory provisions for the sealing of files, records, or documents or those rules promulgated by the Supreme Court or Administrative Office of the Illinois Courts pursuant to the Manual on Recordkeeping.

For purposes of this Local Rule, the term "sealing" shall mean to remove all access to the file, record or document except for users authorized by court order. The term "impoundment" shall mean to remove all access to the file, record or document except for users authorized by statute or court order.

A. Written Order Required

Except as otherwise provided by statute, any files, records or documents may be impounded or sealed only upon written order of a judge.

The Clerk of the Circuit Court shall not impound or seal any file or any part thereof without a written order unless otherwise required by law or the Manual on Recordkeeping.

B. Specified Exceptions

The following exceptions are specifically identified and controlled by statute:

1. Juvenile Files

(a) Juvenile files shall be impounded subject to the terms of 705 ILCS 405/1-8, 705 ILCS 405/5-901.

(b) An attorney who represents a client in a pending criminal matter may without leave of the Court review any juvenile court file wherein that client is the respondent minor in a delinquency proceeding, except such part of the juvenile court file which has been previously sealed by the Court.

2. Fitness Reports, Psychological and/or Psychiatric Evaluations

Fitness reports, psychological and/or psychiatric evaluations shall be impounded subject to the terms of 725 ILCS 5/104-19.

3. Pre-Trial Bond Reports and Pre-Trial Supervised Release Reports

An attorney who represents a client named as the defendant in a pending criminal matter and the prosecutor may without leave of Court review and obtain a copy of the sealed Pre-trial Services Bond Report and Pre-Trial Supervised Release Reports of the defendant who is the subject of the report.

4. Pre-Sentence Investigation Reports

Pre-Sentence investigation reports shall be impounded subject to the terms of the 730 ILCS 5/5-3-4 (a) and (b).

5. Mental Health Records

Mental health records shall be impounded subject to the terms of 740 ILCS 110/1 et. seq.

6. Substance Abuse Evaluations

An attorney who represents a client named as the defendant in a pending criminal matter and the prosecutor may, without leave of Court, review and obtain a copy of the defendant's substance abuse evaluation sealed and maintained separately by the Clerk of the Circuit Court, which evaluation shall otherwise be impounded.

7. Adoption Files

Adoption files shall be impounded subject to the terms of 750 ILCS 50/18.

8. Reports in Guardianship Cases

Reports filed with respect to adjudication of disability and appointment of guardian shall be impounded subject to the terms of 755 ILCS 5/11a-9.

C. Procedure for Sealing

(a) All motions to seal a file, records or documents must be made in writing and presented to the judge assigned to hear the case with appropriate notice to all parties of record. The motion must explain the basis for sealing the file, records or documents and specify the proposed duration of the sealing order. Any motion to seal, upon specific request, may also be sealed if it contains a discussion of the confidential material.

(b) The judge hearing the motion shall enter a written order either granting or denying the request on a form approved by the Circuit Judges. If the judge grants the motion, then the order shall designate whether the entire file, record or document, or only a portion of the entire file, record or document, shall be sealed. The order shall further designate whether an order sealing

a file includes removing the party's names from public access to the index and the duration the file is to be sealed.

D. Review of Sealed Files

(a) Unless otherwise specified on the written order, on an annual basis, the Clerk of the Circuit Court shall present for the judge's review, a list of all files, records or documents sealed by the judge. If the judge ordering the file, record or document to be sealed is no longer available, then the case shall be referred to the Chief Judge or his or her designee for review.

(b) The judge ordering the case, records or document sealed shall review the file to determine whether the case, records or document will remain sealed. A judge may unseal a case, records or document if a party fails to object to the unsealing within 30 days following written notice of the intent to unseal.

(c) For purposes of this rule, review of files sealed pursuant to statute or the Manual on Recordkeeping shall be exempt.

E. Procedure for Impoundment

(a) All motions to impound a file, records or documents must be made in writing and presented to the judge assigned to hear the case with appropriate notice to all parties of record. The motion must explain the basis for impounding the file, records or documents and specify the proposed duration of the impoundment order. Any motion to impound, upon specific request, may also be impounded if it contains a discussion of the confidential material.

(b) The judge hearing the motion shall enter a written order either granting or denying the request on a form approved by the Circuit Judges. If the judge grants the motion, then the order shall designate whether the entire file, record or document, or only a portion of the entire file, record or document, shall be impounded. The order shall further designate whether an order impounding a file includes removing the party's names from public access to the index and the duration the file is to be impounded.

F. Review of Impounded Files

(a) Unless otherwise specified on the written order, on an annual basis, the clerk of the court shall present for the judge's review, a list of all files, records or documents impounded by the judge. If the judge ordering the file, record or document to be impounded is no longer available, then the case shall be referred to the Chief Judge or his or her designee for review.

(b) The judge ordering the case, records or document impounded shall review the file to determine whether the case, records or document will remain impounded. A judge may rescind an order impounding a case, records or document if a party fails to object to the rescinding order within 30 days following written notice of the intent to rescind the order impounding the case.

(c) For purposes of this rule, review of files impounded pursuant to statute or the Manual on Recordkeeping shall be exempt. For purposes of this rule, review of files impounded pursuant to statute or the Manual on Recordkeeping shall be exempt.

G. Motions to Rescind an Order Sealing or Impounding a File

(a) A person or entity seeking access to a sealed or impounded case, records or document, regardless of whether they were a party in the original case and regardless of whether the case is pending or closed may, upon the proper filing of an appearance and if required, paying the

appropriate filing fee, file a motion requesting the Order sealing or impounding the case, records or document be rescinded.

(b) The motion should be titled "Motion to Rescind Order Sealing File" or "Motion to Rescind Order Impounding File", whichever is more appropriate.

(c) Upon the proper filing of a "Motion to Rescind Order Sealing File" or "Motion to Rescind Order Impounding File", within 14 days the Circuit Court Clerk shall set the motion for hearing before the judge who ordered the case, records or documents to be sealed or impounded. If the judge ordering the case, records or documents sealed or impounded is no longer available or cannot hear the motion within the 14 days set forth by this rule, and then the case shall be referred to the Chief Judge or his or her designee for review.