

CAYMAN ISLANDS



PRACTICE DIRECTION EXHIBITS IN CRIMINAL CASES

(PD 3 of 2021)

Supplement No. 1 published with Legislation Gazette No. 67 of 30th November, 2021



PRACTICE DIRECTION NO. 3 OF 2021

Practice Direction Exhibits in Criminal Cases

1. This Practice Direction relates to orders and safe custody of Exhibits and Relevant Investigative Material and shall be read and construed in keeping with the Exhibits Rules.
2. Following the commencement of proceedings for an offence, the Court shall consider at the first case management hearing (or on arraignment in the Summary Court if the case is to be then disposed of) what orders should be made in relation to the inspection, retention, transfer, return, destruction or other disposal of items intended to be produced in evidence (in whole or in part) at trial or to be represented by Exhibits in another form (“Relevant Investigative Material”), including orders for the form in which they are to be exhibited. All parties will be expected to have clear instructions in this regard prior to that hearing, particularly in cases involving perishable items, dangerous items, controlled drugs (in keeping with section 8 of the Misuse of Drugs Act (2017 Revision)), items of high monetary/personal value, or items requiring large amounts of storage space.
3. Before any item is marked as an Exhibit at trial, careful consideration should be given to whether this is necessary or whether it may be possible to adduce the evidence in another manner (e.g. by producing it for temporary inspection by the tribunal of fact, or by the use of other evidence of it whether by schedule, photograph, other media or otherwise).
4. Where the Court considers it appropriate to do so, *e.g.* on grounds of health, safety, security, convenience, or by the agreement of the parties, it may order that an Exhibit that is no longer required in Court is transferred to the safe custody of the relevant Law Enforcement Agency (or otherwise) on such terms as shall be expedient.

5. The Court retains a discretion to make case-specific orders at or before the conclusion of trial relating to the retention, transfer, return, destruction or other disposal of individual Exhibits and Relevant Investigative Material, including specifying the form in which they may be retained and, exceptionally, orders varying the minimum retention periods as set out in the Exhibits Rules.
6. Parties have a duty to consider what further or other orders in respect of exhibits and Relevant Investigative Material are required or appropriate at the conclusion of trial. They should endeavour to agree any such orders and, if they cannot, identify in an agreed note all issues of contention for determination at the conclusion of trial.
7. The Court may, in the interests of justice and in an appropriate case, hear representations from interested third parties as to the disposal of individual Exhibits or Relevant Investigative Material.
8. Parties have a duty to ensure that any Exhibit that has been opened or unsealed in Court for inspection or otherwise is resealed at the first appropriate time and during any adjournment.
9. The Office of the Director of Public Prosecutions shall forthwith notify in writing the relevant Law Enforcement Agency of any order relating to Exhibits or Relevant Investigative Material and provide to it a copy of the same.
10. On notification by Her Majesty's Cayman Islands Prison Service of the release or discharge of a person to whom Rule [7] of the Exhibits Rules applies, the Office of the Director of Public Prosecutions shall forthwith notify in writing the relevant Law Enforcement Agency of the same.

Hon Anthony Smellie QC
Chief Justice
The Cayman Islands

29 November 2021