

**SUPREME COURT OF PENNSYLVANIA  
APPELLATE COURT PROCEDURAL RULES COMMITTEE**

**NOTICE OF PROPOSED RULEMAKING**

**Proposed Amendment of Pa.R.A.P. 1931**

The Appellate Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.A.P. 1931 for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

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All communications in reference to the proposal should be received by **May 9, 2025**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Appellate Court Procedural Rules Committee,

Peter J. Gardner  
Chair

**Rule 1931. Transmission of the Record.**

\* \* \*

**(c) Duty of Clerk to Transmit the Record.**

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**[Documents of unusual bulk or weight and physical exhibits other than documents shall not be transmitted by the clerk unless he or she is directed to do so by a party or by the prothonotary of the appellate court. A party must make advance arrangements with the clerk for the transportation and receipt of exhibits of unusual bulk or weight.]**

**(5) Transmission of Exhibits.**

**(i) Oversized Documentary Exhibits.**

**(A) Except as otherwise provided in this rule, an oversized documentary exhibit made part of the original record pursuant to Pa.R.J.A. 5103(a) shall be transmitted to the appellate court in the form required by Pa.R.J.A. 5103(a).**

**(B) A party may request, by application to the appellate court, the transmission of an oversized documentary exhibit. If granted, the prothonotary of the appellate court shall direct the clerk of the trial court to transmit the oversized documentary exhibit to the appellate court. A party making the request shall make advance arrangements with the clerk of the trial court for the transportation and receipt of the oversized documentary exhibit.**

**(ii) Non-Documentary Exhibits.**

**(A) Except as otherwise provided in this rule, a non-documentary exhibit made part of the original record pursuant to Pa.R.J.A. 5103(c) shall be transmitted to the appellate court in the form required by Pa.R.J.A. 5103(c).**

**(B) A party may request, by application to the appellate court, the transmission of a non-documentary exhibit. If granted, the prothonotary of the appellate court shall direct the clerk of the trial**

court to transmit the non-documentary exhibit to the appellate court. A party making the request shall make advance arrangements with the clerk of the trial court for the transportation and receipt of the non-documentary exhibit. If the non-documentary exhibit involves weapons, contraband, or hazardous materials, the party shall ensure that the exhibit is transmitted by law enforcement personnel who are authorized to transport such items to the appellate court.

(iii) Digital Media. A “non-documentary exhibit” shall not include any digital media storage device, such as a USB, CD, or DVD.

\* \* \*

**Comment:** Pa.R.A.P. 1926 provides the means to resolve any disagreement between the parties as to what should be included in the record on appeal.

**[Paragraph] Subdivision (c)—See generally Pa.R.J.A. 5101-5105 concerning the custody of exhibits.**

Pa.R.J.A. 5103(a) requires a documentary exhibit that is larger than 8 ½ x 11 inches to be reduced to copy of 8 ½ x 11 inches (or smaller) to be entered into the original record.

Pa.R.J.A. 5103(c) requires a photograph of a non-documentary exhibit (no larger in size than 8 ½ x 11 inches) to be entered into the original record in lieu of the non-documentary exhibit.

The Comment to Pa.R.J.A. 5103(d) specifies that non-documentary exhibits involving weapons, contraband, or hazardous materials should only be transmitted by law enforcement personnel who are authorized to transport such items to the appellate court.

Pa.R.J.A. 5103(e) requires any exhibit that is in a digital format entered into the original record shall be in a format that is acceptable to the court. Digital media exhibits include any law enforcement body camera or car camera video.

This subdivision does not relieve the appellant of the requirements under Pa.R.A.P. 2134(b) (drafts or plans).

On January 1, 2022, the *Case Records Public Access Policy of the Unified Judicial System* was amended to require the filing of the Confidential Information Form and eliminate the filing of “Redacted Versions” and “Unredacted Versions” of pleadings, documents, or other legal papers. Section 9.0(H) of the amended Policy continues to protect “Unredacted Versions” that were filed under the prior version of the Policy. For any “Unredacted Version,” the clerk of the trial court should continue to comply with the requirements of **[paragraph] subdivision** (c) when transmitting the record to the appellate court.

### **Historical Commentary**

**The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:**

#### **Explanatory Comment—1976**

This provision makes clear that in multiple appeals only one original record need be transmitted.

#### **Explanatory Comment—2004**

It is hoped that the 2004 amendment to Rule 1931 will alleviate the potential waiver problem which results when counsel is unable to ascertain whether the entire record in a particular case has been transmitted to the appellate court for review. The rule change is intended to assist counsel in his or her responsibility under the Rules of Appellate Procedure to provide a full and complete record for effective appellate review. See *Commonwealth v. Williams*, 552 Pa. 451, 715 A.2d 1101 (1998) (“The fundamental tool for appellate review is the official record of what happened at trial, and appellate courts are limited to considering only those facts that have been duly certified in the record on appeal.”); *Commonwealth v. Wint*, 1999 Pa.Super. 81, 730 A.2d 965 (1999) (“Appellant has the responsibility to make sure that the record forwarded to an appellate court contains those documents necessary to allow a complete and judicious assessment of the issues raised on appeal.”). In order to facilitate counsel's ability to monitor the contents of the original record which is transmitted from the trial court to the appellate court, new subdivision (d) requires that a copy of the list of record documents be mailed to all counsel of record, or to the parties themselves if unrepresented, and that the giving of such notice be noted on the record. Thereafter, in the event that counsel discovers that anything material to either party has been omitted from the certified record, such omission can be corrected pursuant to Pa.R.A.P. 1926.

**SUPREME COURT OF PENNSYLVANIA  
APPELLATE COURT PROCEDURAL RULES COMMITTEE**

**PUBLICATION REPORT**

**Proposed Amendment of Pa.R.A.P. 1931**

The Appellate Court Procedural Rules Committee is considering proposing to the Supreme Court the amendment of Pennsylvania Rule of Appellate Procedure 1931 to provide for the transmission of oversized documentary exhibits and non-documentary physical exhibits to the appellate courts.

In 2023, the Supreme Court adopted Pennsylvania Rules of Judicial Administration 5101-5105 to govern the custody of exhibits during and after trial court proceedings, including both documentary exhibits and non-documentary exhibits consisting of photographs, video evidence, and oversized physical exhibits. Pa.R.J.A. 5103(a) requires the proponent of an oversized documentary exhibit offered into evidence to ensure that a copy of that exhibit is reduced to 8 ½ x 11 inches for entry into the original record. Pa.R.J.A. 5103(c) has a similar requirement regarding non-documentary physical exhibits by requiring entry into the record of a photograph of the exhibit that is no larger than 8 ½ x 11 inches in lieu of the exhibit. The result is that an exhibit entered into evidence in a trial court proceeding must now be included as an 8 ½ x 11-inch item into the original record. It is this item that the clerk will certify for transmission to the appellate court.

With the adoption of uniform standards for the entry of exhibits at the trial court level, the Committee examined the current procedures in the Rules of Appellate Procedure for the transmission of exhibits to the appellate courts as part of the certified record. Pa.R.A.P. 1931(c) currently sets forth specific procedures for the transmission of documents of unusual bulk or weight and physical exhibits. The rule prohibits the clerk of the trial court from transferring these types of exhibits unless directed to do so by a party or by the appellate court. The rule also directs that a party must make arrangements in advance for the transportation and receipt of exhibits of unusual bulk or weight.

To acknowledge and implement the requirements of Pa.R.J.A. 5101-5105, the Committee is proposing an amendment of Pa.R.A.P. 1931(c) to provide that, as a general rule, oversized documentary exhibits, such as maps, zoning site plans, etc., and non-documentary exhibits made part of the original record pursuant to Pa.R.J.A. 5101-5105 should be transmitted to the appellate court in the form prescribed by those rules.

Recognizing that there may be instances that necessitate the transmission of an actual oversized documentary or non-documentary exhibit to the appellate court, the Committee is proposing an amendment of Pa.R.A.P. 1931(c) to permit a party, upon

application to the appellate court, to request the transmission of that exhibit to the appellate court. If the application is granted, the prothonotary of the appellate court will direct the clerk of the trial court to transmit the exhibit. The rule retains the requirement for the party making the request to make advance arrangements with the clerk of the trial court for the transportation and receipt of the exhibit by the appellate court. Importantly, the rule requires that any non-documentary exhibit involving weapons, contraband, or hazardous materials must be transmitted to the appellate court by law enforcement personnel authorized to transport such items.

Finally, the proposed amendment would exclude as a “non-documentary exhibit” any digital media storage device, such as a USB, CD, or DVD, to emphasize that, although it is a physical object, the evidence contained therein is in a digital format and should be transmitted to the appellate court pursuant to Pa.R.J.A. 5103(e).

Accordingly, the Committee invites all comments, objections, concerns, and suggestions regarding this proposed rulemaking.